A Path Forward

A resource guide to support Treaty First Nation, regional district and local government collaboration and planning

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BRITISH COLUMBIA

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A number of other valuable resources were used in the production of this document. These include publications from the Union of British Columbia Municipalities, the Federation of Canadian Municipalities, and the BC Treaty Commission among others. A full list of references is provided in the resources section at the end of this document.

INTRODUCTION AND BACKGROUND

This resource guide was created to help Treaty First Nations, regional districts, and local governments improve regional planning, collaboration and service delivery as treaties are implemented across BC.

Collaboration and coordinated planning between Treaty First Nations and other local governments present opportunities to expand and improve regional level planning and service delivery, and advance regional sustainability planning efforts.

It is designed to:

- ✓ Provide a planning and resource guide to support regional districts, local governments and Treaty First Nations in resolving issues associated with joining a regional district and/or negotiating servicing agreements;
- ✓ Provide advice and recommendations on service planning, land use harmonization, and communications issues;
- ✓ Identify proper terminology and protocols to support positive working relationships between the Treaty First Nations, local governments and regional districts; and
- ✓ Describe methods for identifying regional district service areas and equitable cost apportionment methods for Treaty First Nations participation.

It is targeted for elected officials and staff from First Nations, regional districts, municipalities and electoral areas where treaties have been implemented or are nearing completion. It is broken down into several sections that reflect the “big picture” steps in expanding regional districts to include new Treaty First Nation governments and/or improve regional servicing and long-range planning.

The toolkit provides tips and tools to take advantage of the opportunities and address the challenges of expanded regional collaboration. Best practice examples, “mini” case studies and links to additional planning tools and resources are available throughout it.

How was it developed?

The Government of British Columbia led by the Ministry of Aboriginal Relations and Reconciliation and supported by the Ministry of Community, Sport and Cultural Development, has been working with local governments as treaties are negotiated and implemented. This toolkit was developed to further support local governments and Treaty First Nations to prepare for, negotiate, and implement their new relationship.

On April 1, 2012 the Huu-ay-aht First Nations (pronounced hoo-ay-aht) and Yuułuʔiłʔatḥ Government (pronounced yoo-thlu-ilth-aht) became the first of the five First Nations of the Maa-nulth Treaty to join the regional district where their Treaty Settlement Lands are located — a requirement of the Maa-nulth Treaty.

Much of the learning presented in this toolkit came out of a planning process to support these two Treaty First Nations as they joined the Alberni-Clayoquot Regional District (ACRD) on Vancouver Island.

A number of products emerged from this process: a Fact Package and Orientation Manual specific to the ACRD and the First Nations of the Maa-nulth Treaty; an introductory "Treaty 101" PowerPoint; a community information newsletter; community information posters; and a structured planning process to help explore, prioritize and effectively apportion regional district services. All of these products are transferable (with some modification) and are outlined in this toolkit.

John Jack, councilor with the Huu-ay-aht First Nations, is welcomed as a new director on the Alberni-Clayquot Regional District board. On April 1, 2012 both the Huu-ay-aht First Nations and Yuułuʔiłʔatḥ Government officially joined the ACRD. (photo: Alberni Valley Times)

SECTION 1

About Treaty First Nations

Treaty-making in BC has a unique history. Aside from the Douglas Treaties and Treaty 8 signed in the late 1800s, no treaties were completed in BC until the end of the 20th century. Most other regions in Canada had signed formal treaties by the early 1900s, or even as early as the mid-1700s in parts of eastern Canada.

The BC Treaty Commission and accompanying treaty process were established in 1992 with the belief that settling outstanding land and title issues would be good for First Nations and good for the province. The Tsawwassen Treaty (effective in 2009) was the first Treaty completed in this new process and the Maa-nulth Treaty (effective in 2011) was the second. The Nisga'a Treaty (effective in 2000) was the first modern day treaty brought into effect, but it was completed outside of this BC Treaty Commission process.

As treaties are finalized and implemented across the province, local governments and Treaty First Nations will be better able to understand how their neighbouring governments function, their respective authorities, and the opportunities that closer working relationships bring.

To be sure, the treaty process is a complex undertaking with no precedents. In the years to come, many more Treaty First Nations will join the table as new planning partners. Building respect and understanding to foster effective intergovernmental relationships will represent a major opportunity for all parties.

Over the longer term, as both First Nations and local governments build stronger relationships and work more closely as regional partners, the benefits of more collaborative planning will become clear. Future opportunities will include:

- Creating effective intergovernmental protocols, procedures and planning relationships;
- Expanding and improving regional-level planning and service delivery;
- Advancing regional sustainability planning efforts; and
- Creating a stronger voice for regional interests.

WHAT IS A TREATY?

Negotiated between First Nations in the BC treaty process and the federal and provincial governments, a treaty is a legal and constitutional agreement outlining the respective rights, responsibilities and authorities of those parties over areas such as land ownership, governance, wildlife and environmental management, financial benefits, and taxation. A treaty is also a full and formal expression of reconciliation between First Nations and federal and provincial governments.

Adapted from the *B.C. Ministry of Aboriginal Relations and Reconciliation* website. http://www.gov.bc.ca/arr/treaty/faq.html

BC's First Nations: Where We've Been, Where We're Going

British Columbia is home to about one third of all First Nations in Canada. The legal and political history of Aboriginal Canadians has important implications for the emerging relationships between BC First Nations and local and regional governments. It is important to understand where BC First Nations have come from in order to understand where they are now.

Figure: Key Time Periods in BC First Nations Legal and Political History

Pre-1740	Prior to European contact, BC's Aboriginal peoples had their own diverse systems of governance, land and resource management and social organization. Decision-making took many forms, such as through decentralized family groups (Big House), clan systems, and other sophisticated forms.
1740 – 1830s	During the period of initial contact with Europeans, many of the relationships between First Nations and colonial officials were based on mutual tolerance and respect. First Nations were of great strategic importance for colonial trade and military alliances; cooperative relationships with First Nations enabled European settlers to survive and become established. Early colonial policy was protectionist, aiming to maintain friendly relations and minimize conflict.
1830s – 1870s	From the early 1800s onward British policy shifted towards an effort to "civilize". The reserve system was developed – constituted by typically small, isolated fragments of land. This supported the establishment of other "civilizing" institutions like churches and schools.
1870s – 1960s	The *Indian Act* was established in 1876. This laid the foundation for decades of invasive, disempowering, assimilationist policies and practices, including the residential school system, forced relocations, and the outlawing of cultural and traditional governance practices. Under the *Indian Act*, an elected Band Council with restricted powers governs each First Nation. First Nations do not hold the legal title to their reserve lands, which affects their ability to develop and manage lands.
1970s – Present	The majority of the 615 currently recognized First Nations in Canada still operate under the *Indian Act*, which is in many ways unchanged from the original legislation. Band Councils are responsible for administering programs and services with funding determined and provided through Aboriginal Affairs and Northern Development Canada (AANDC). While powers and authorities are slowly being transferred back to First Nations across Canada, the current centralized management system is not without its bureaucratic complexities and challenges for First Nations still under the *Indian Act*.

BC First Nations Timeline: Significant events from contact to present day

Contact and Cooperation

~1740s

Spanish, English and Russian explorers make contact with coastal First Nations. Pre-contact population estimates for BC vary widely with some estimates ranging from a conservative 200,000 to more than a million.

1763

Royal Proclamation of King George III reserved lands for Aboriginal people and outlawed private purchase of their land. It also gave the Crown a monopoly on all future land purchases from Aboriginal groups.

1800s – 1850s

Forts and trading posts established by Northwest Company, Hudson's Bay Company and others

Indian Act Era: Control, Displacement, and Assimilation

1876

First federal *Indian Act* passed -- lands and resources in BC excluded

1876

"Indian people" excluded from voting in municipal elections (not reinstated until 1949)

1890s

Residential schools begin to be established with federal government regulating their operation in 1892

1920s

BC's First Nations population reaches lowest point (estimated 21,489 in 1913) due primarily to diseases such as smallpox and tuberculosis

1924

Band Council system introduced to replace the hereditary leadership system

Negotiation and Renewal

1973

Aboriginal rights discussed for first time in Parliament as federal land claims policy introduced

1976

Province agrees to participate in Nisga'a negotiations / federal adoption of comprehensive land claims policy

1988

Bill C-115 establishes power for bands to tax their reserve lands

1991

BC Claims Task Force recommends new treaty process for BC / Claims Commission created

1992

First Nations Summit and the BC Treaty Commission established to implement the new BC treaty process

Protectionism and 'Civilization'

1830s
Modern reserve system develops in eastern Canada

1867
Constitution Act stipulates that Canada responsible for "Indians and lands reserved for Indians"

1871
BC enters Confederation

1872
The right to vote in BC elections withdrawn from "Indian people" in BC (not reinstated until1949)

Aboriginal Policy in Transition

1960
Joint Committee for the Review of Indian Affairs Policy recommends settling outstanding land claims

1960
Federal voting rights extended to include Aboriginal Canadians

1966
Department of Indian Affairs and Northern Development formed (now Aboriginal Affairs and Northern Development Canada)

1968
Nisga'a take their land claim to court

1995
Federal government acknowledges First Nations inherent right to self-government

1996
The Royal Commission on Aboriginal Peoples report recommends a redistribution of political authority and economic resources to reform the relationship between Canada and Aboriginal peoples

1996
The Nisga'a Tribal Council, BC, and Canada sign an Agreement-in-Principle that forms the basis of the first Comprehensive Claim agreement signed in BC

1997
Delgamuuk'w v. British Columbia upholds aboriginal title (Supreme Court of Canada)

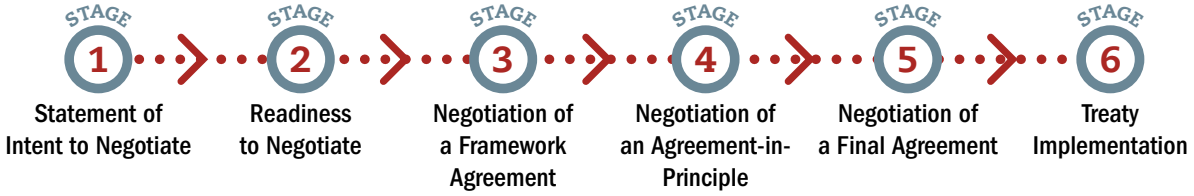
2000
Nisga'a Final Agreement effective date

2009
Tsawwassen Treaty effective date

2011
Maa-nulth Treaty effective date

Today's Treaty Process

Established in 1992 along with the BC Treaty Commission, today's treaty process aims to achieve final, comprehensive agreements with participating First Nations through a six-stage process. The BC Treaty Commission is an independent body that facilitates and oversees the negotiation process. It also provides guidance and advice to parties, administers funding, and builds public awareness, among other roles. The BC treaty process is illustrated below:



Throughout British Columbia, 59 First Nations are participating in the BC treaty process at 49 negotiating tables. Combined, these First Nations represent about two-thirds of all First Nations people in the province[1]. A treaty table is defined as the individual negotiation process for each treaty, and includes the negotiating teams for the First Nation(s), the Province of BC and the Government of Canada.

In some cases, individual Nations choose to participate together in a single treaty table, as in the case of the Maa-nulth Treaty, which includes Huu-ay-aht First Nations, Ka:'yu:'k't'h'/Che:k'tles7et'h First Nations, Toquaht Nation, Uchucklesaht Tribe, and Yuułuʔiłʔatḥ Government.

Each treaty table is at some stage of the six-stage treaty process. The majority of these are in Stage 4 which involves the development of an Agreement-in-Principle, the precursor to a Final Agreement. The following map and table identifies First Nations who have either completed their treaty or who are in advanced stages.

"FIRST NATIONS", "BANDS" What do they mean? What's the difference?

"Band" or "Indian Band" is a term that was created through the *Indian Act*. When the Act was created, First Nations communities throughout BC were grouped and designated to specific reserves. Often this meant that communities traditionally connected were split apart and others were grouped together – for the purposes of Indian and Northern Affairs Canada administration.

Any First Nation no longer governed under the *Indian Act* (i.e., Treaty First Nations), is not typically referred to as "Band" or "Indian Band". In general, the term "Band" is rejected by many First Nations because of its association with the *Indian Act*.

If not sure how to refer to a specific community, it is best to ask.

1 First Nations have the opportunity to determine the governing body under which they enter the treaty process. This can be their community as defined under the *Indian Act* or other groupings, often representing traditional relationships. The Statement of Intent, filed as Stage 1 in the treaty process, must demonstrate a mandate from the First Nation's membership to enter the treaty process.

Figure: Snapshot of Treaty Negotiation Status in BC

Nations and Treaty Status	Regional District
Implemented Final Agreements (Stage 6 of BC Treaty Process)	
Tsawwassen First Nation: Effective April 3, 2009	Metro Vancouver Regional District
Maa-nulth First Nations: Effective April 1, 2011	Alberni-Clayoquot Regional District, Strathcona Regional District
Completed Final Agreements (Stage 5 of BC Treaty Process)	
Tla'amin First Nation: ratified by members on July 10, 2012	Powell River Regional District
Yale First Nation: ratified by members in March 2011 and by BC Legislature on June 2, 2011. Awaiting ratification by federal government	Fraser Valley Regional District
Lheidli T'enneh First Nation: rejected in 2007 by membership vote, but still active in the process and working with members to revise contents	Fraser-Fort George Regional District
In Final Agreement Negotiations (Stage 5 of BC Treaty Process)	
In-SHUCK-ch Nation: Agreement-in-Principle approved in August 2007	Fraser Valley Regional District
Yekooche Nation: Agreement-in-Principle approved in June 2005	Bulkley-Nechako Regional District
K'ómoks First Nation: Agreement-in-Principle signed by K'ómoks, BC and Canada on March 24, 2012	Comox Valley Regional District
In Advanced Agreement-in-Principle Negotiations (Stage 4 of BC Treaty Process)	
Ktunaxa Kinbasket Treaty Council: Signed Framework Agreement in May 1998	East Kootenay Regional District
'Namgis Nation: Signed Framework Agreement in March 2000. Expected to have an Agreement-in-Principle ready for community review in 2012	Mount Waddington Regional District
Tla-o-qui-aht First Nation: Concluded Agreement-in-Principle negotiations and will vote on or before February 2013	Alberni-Clayoquot Regional District
Tsimshian First Nations: Revised Statement of Intent accepted in 2004. Four of the five bands – Kitasoo/Xaixais, Kitselas, Kitsumkalum, and Metlakatla – are in Agreement-in-Principle negotiations	Kitimat-Stikine Regional District and Skeena-Queen Charlotte Regional District

Map: Late-stage Treaty Negotiations in BC

The Negotiation Process

Representatives from BC, Canada and the First Nation negotiate each treaty. Negotiations are funded through a mix of grants and loans from provincial and federal governments, the majority of which are to be repaid over time by the Treaty First Nations once a treaty becomes effective.

Each treaty developed under the BC treaty process is unique and reflects, to some extent, traditional and local resource values and the availability of Treaty Settlement Land (i.e., suitable Crown land whose ownership is transferred to the First Nation). For example, the Tsawwassen Treaty was negotiated in a densely populated urban area with little Crown land. On the other hand, the land allocations in the Maa-nulth Treaty were significantly larger given the large areas of suitable Crown land.

TSAWWASSEN and MAA-NULTH TREATIES

The BC Treaty Commission compiled a "plain language" guide to the Tsawwassen and Maa-nulth First Nations Treaties called "What's in these treaties?" It contains more detailed information on the treaties and their unique provisions.

A copy of this guide can be downloaded from the BC Treaty Commission website at www.bctreaty.net.

Both the Tsawwassen and Maa-nulth Treaties contain provisions for lands, resource harvesting agreements, and a financial settlement. They also outline roles and responsibilities for management of water and natural resources, governance, taxation, trade and barter, access, and other negotiated rights.

ON THE GROUND
The Nisga'a Treaty – BC's first modern day treaty

In 1887, Nisga'a chiefs traveled to Victoria from their home in the Nass Valley in northern BC to demand recognition of title, negotiation of treaties and self-government. This trip started a long and lengthy journey that eventually led to formal treaty negotiations with Canada and the Province of BC and the negotiation of the Nisga'a Final Agreement in the 1990s.

Though negotiated outside the BC Treaty Commission Process, the Nisga'a Final Agreement is the first modern day treaty in BC, taking legal effect May 11, 2000. Under the terms of their Treaty, Nisga'a Lands form part of Electoral Area A of the Regional District of Kitimat-Stikine. Residents on Nisga'a Lands are able to vote in elections and referenda of the Regional District of Kitimat-Stikine (RDKS).

Under the terms of the agreement, the Nisga'a Nation and any Nisga'a Village may enter into service agreements with RDKS and vice versa. The Nisga'a Nation and RDKS may also enter into other agreements to "coordinate their activities with respect to common areas of responsibility such as planning, health services, and infrastructure development."

While the final agreements drafted to date include many similar elements, the requirements to join regional districts differ with each. The Maa-nulth Treaty requires the participating Treaty First Nations to join their respective regional districts by April 2021[2]. The recently concluded Yale First Nation and Tla'amin First Nation Treaties, however, have no similar requirement. While they stipulate that the First Nations become participants in regional hospital district service, there is no requirement that they join the regional district in which they are located. Their treaties do, however, make it *possible* for them to become regional district members and outline possible regional governance opportunities, such as joint plans, land use harmonization initiatives and protocol agreements.

Treaty First Nations: Government Structure and Authority

The governing powers and authorities of Treaty First Nations are outlined in their final treaties. While structures change somewhat with every treaty, every Treaty First Nation has its own constitution describing the rights and responsibilities of its citizens and providing standards consistent with other governments in Canada.

Each constitution also spells out law-making powers with regard to a broad range of issues including:

- Lands and land management
- Social development (including education)
- Protection and enhancement of culture
- Heritage and language
- Public administration
- Taxation and financial accountability

BC's modern treaties are based on a concurrent law making model – this acknowledges federal and provincial laws and clarifies which laws will prevail in situations of conflict. The laws formed under each Treaty First Nation's constitution, however, have the highest priority when it comes to internal matters. Though there are some areas where provincial and federal law prevail, the Treaty First Nations' governing authorities are more significant than other BC local governments (municipalities and regional districts). Current Agreements-in-Principle and draft treaties have similar components:

- **Federal Laws & Provincial Laws:**
  As a legislative authority within Canada, Treaty First Nation governments are included in the Canadian federal system. Treaties will not alter the Canadian Constitution, including Aboriginal rights outlined in Sections 25 and 35. The *Canadian Charter of Rights and Freedoms* applies to all Treaty First Nation citizens. In the case of conflict, federal and provincial laws will prevail over Treaty First Nation legislation for issues related to child care; post secondary education; health services; social services; marriages; order, peace and safety; emergency preparedness; public works; regulation of businesses; and, traffic,

2 Huu-ay-aht First Nations, Yuułuʔiłʔatḥ Government, Toquaht Nation and Uchucklesaht Tribe are all located in the Alberni-Clayoquot Regional District, while Ka:'yu:'k't'h'/Che:k'tles7et'h First Nations are located in the Strathcona Regional District.

transportation, parking and highways. The BC Building Code applies to Treaty Settlement Lands (TSL). Federal and provincial environmental assessment laws apply to TSL, and both Canada and BC typically retain the authority to manage fish, wildlife and migratory birds within their respective habitats.

- **Taxation:** Canada will have concurrent tax authority on TSL and BC typically will vacate from property tax on TSL through a side agreement. Each Treaty First Nation has the authority to levy taxes on TSL but both Canada and BC will continue to have concurrent tax authority on these lands. The tax exemptions previously provided under the *Indian Act* will be phased out for Treaty First Nation members. Typically, transaction tax exemptions (e.g., sales tax) are phased out after 8 years, while all other tax exemptions (e.g., income taxes) are phased out after 12 years.
- **Treaty Settlement Lands (TSL):**
  Lands allotted as TSL are owned as "fee simple" by the Treaty First Nation with a few key differences in the character of ownership compared with "fee simple" lands elsewhere in BC:
  - Each Treaty First Nation has law-making authority and is the governing body over its TSL
  - Each Treaty First Nation owns the subsurface resources under the land
  - Expropriation is limited and can only be done in accordance with the treaty (expropriated lands must be replaced and/or compensated for)
  - TSL and Treaty First Nation rights to land are protected by section 35 of the Canadian Constitution

ON THE GROUND
Treaty Settlement Lands (TSL): An Overview

While every treaty will likely vary somewhat, the following highlights for Treaty Settlement Lands (TSL) will be consistent across all treaties.

Public Access: Existing roads within TSL are listed as Crown corridors and excluded from TSL. Private landowners are assured access to their properties. The public has continued access to non-private treaty lands for recreational and non-commercial use (e.g., hunting, fishing). While TSL can be designated private under certain conditions, key recreation sites cannot be converted without BC's consent.

Foreshore: BC maintains ownership of the foreshore. Treaty First Nations have law-making authority over the marine and freshwater foreshore areas of these lands in the same way a municipal authority does.

Traditional Lands: Treaties provide a role for Treaty First Nations within their traditional territories beyond TSL. This includes the opportunity to be consulted and have input on decisions regarding resource management, commercial tenures, resource revenue sharing as well as planning and management for protected and conservation areas, environmental assessments and the harvest of renewable resources. This is similar to today's referral and consultation process with non-treaty First Nations.

Figure: A comparison of TSL and Indian Act lands

	Under the *Indian Act*	Under treaties
Land ownership	Crown owns land	Treaty First Nation owns land
Land registration	Aboriginal and Northern Development Canada	Ability to raise title in BC system
Expropriation	Yes	Limited
Sub-surface ownership	None	Yes
Land management	None	Yes
Law-making	Limited	Yes
Economic development	Limited	Yes
Submerged land	None	Say in protection
Protection of land base	None	Certainty in constitution

Treaties and Local Government

While every treaty is distinct, there are several areas where treaties have significant connections to regional district governance. These include land use management planning, the planning and delivery of services and other areas.

The treaty process is long and complicated. The Tsawwassen and the Maa-nulth Treaties each took over 15 years to negotiate. This is important for all parties to keep in mind as the treaty implementation rolls out and progresses, as it is likely that full transition to more collaborative regional planning will take time to learn, understand and appreciate.

Understanding the timelines involved in negotiating and implementing treaties is also critical for understanding how and when local governments can best become involved. There are opportunities for local governments to get involved in the negotiation process and help create a treaty that maximizes the benefits for all parties as early at Stage 2 of the treaty negotiation process.

Section 3 of this toolkit outlines a variety of ways that First Nations and local governments could collaborate throughout the treaty process.

ON THE GROUND
Maintaining Lines of Communication

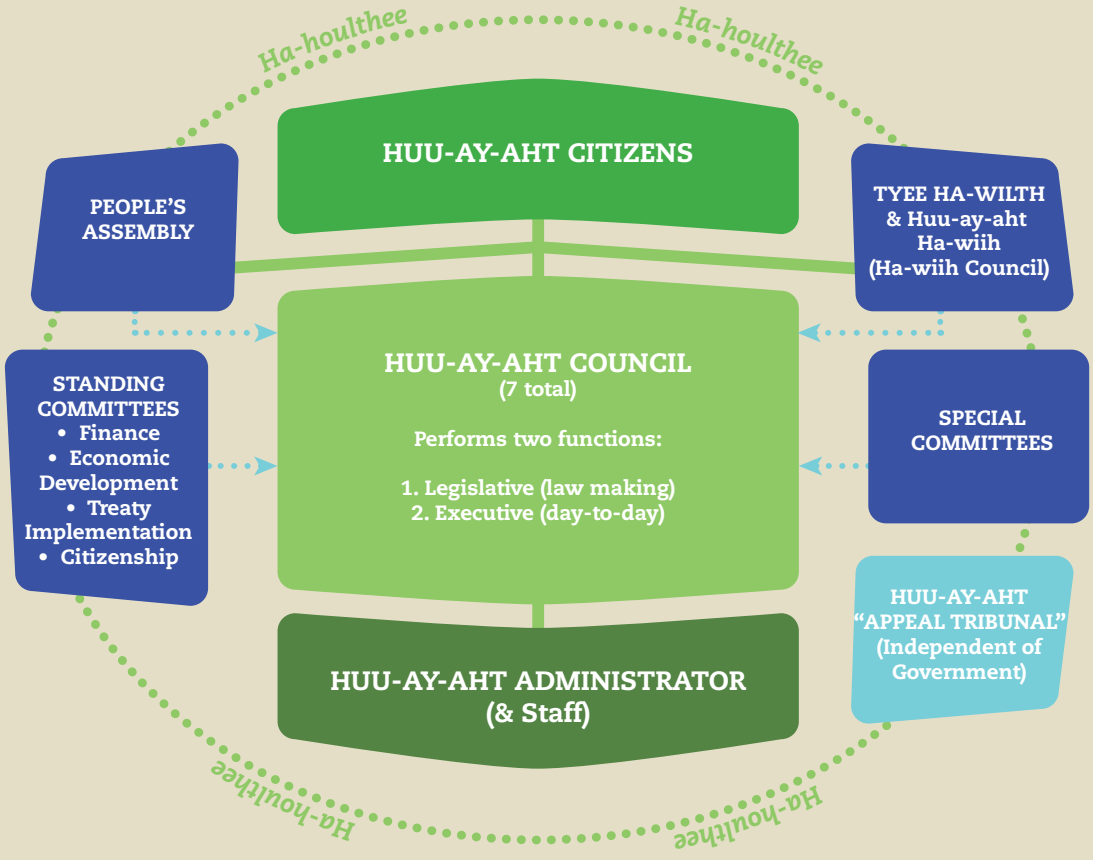
While provincial negotiators look to meet with local governments that would be directly impacted by a treaty on a regular basis, the information shared in these meetings can get "lost" over the years of negotiation as staff and officials from all parties turn over. Election cycles for all the governments involved are much shorter than the negotiation process.

To deal with this reality, local governments and Treaty First Nations should make the effort to meet early and often, and start building clear lines of communication that will continue through the duration of the negotiation process.

TREATY FIRST NATION GOVERNMENT STRUCTURE: An Example

The Treaty First Nations established to this day have an effectively hybrid parliamentary legislative system that incorporates traditional governance elements. Typically, as the example organization chart from Huu-ay-aht First Nations illustrates, the government is organized into several main components. In Huu-ay-aht's case the components are a legislature, an executive, a People's Assembly that meets at least once a year, and a Ha-wiih Council which represents Huu-ay-aht's traditional, hereditary governance system. One member of the Ha-wiih Council (the Tyee Ha-wilth) is appointed to sit with Huu-ay-aht's six-member elected Council.

The Huu-ay-aht Council acts as both a legislature, responsible for law-making, and as an executive responsible for day-to-day administration of the laws put in place (e.g., *Real Property Tax Act, Land Act*). The executive council manages responsibilities based on a number of portfolios that have been established (e.g., Finance, Economic Development). Each Councillor is responsible for a specific portfolio, one of which includes acting as Huu-ay-aht's director at the Alberni-Clayoquot Regional District. Elections are held every four years.



Want more information?
Visit the BC Treaty Commission (www.bctreaty.net) or Ministry of Aboriginal Relations and Reconciliation (www.gov.bc.ca/arr) to learn more about Treaty First Nations government structure. There you will be able to find helpful documents and publications, including copies of existing Final Agreements and the Orientation Manual that was developed to support regional cooperation between First Nations of the Maa-nulth Treaty and the Alberni-Clayoquot Regional District.

Treaties and Self-Government: Different Paths, Similar Destination

Treaties represent just one approach for restoring self-governance and independence to BC First Nations. The Nisga'a completed a Treaty outside of the current BC Treaty Commission process in 1999. The Westbank First Nation and Sechelt Indian Band completed comprehensive self-government agreements outside the treaty process that outline lands and resource management, areas of jurisdictional authority, and law-making abilities and procedures. Other First Nations are exploring these alternative options.

The federal government has also developed several programs that permit First Nations to manage certain components of their governance, lands and resources, and financial management, including:

- *First Nations Fiscal and Statistical Management Act* (2006), which provides real property taxation powers to qualifying First Nations

- *First Nations Land Management Act* (1999), which provides signatory First Nations the authority to make laws in relation to reserve lands, resources and the environment.

Any First Nation can opt into these programs concurrently with any treaty negotiations it may be involved in. While First Nations who opt into these programs will have greater power and authority – some of which may raise planning considerations for local governments – the strongest opportunities for collaborative regional planning still rest with self-governing First Nations and Treaty First Nations.

A CASE IN POINT
Alternatives to the Treaty Process & Regional District Relationships

The Sechelt Indian Band and the Sunshine Coast Regional District (SCRD)

The Sechelt Indian Band became self-governing in 1986 when the Province enacted the *Sechelt Indian Band Self-Governing Act*. It gave them legal rights to enter into contracts and agreements; acquire, sell and dispose of property; and spend, invest and borrow money. The elected council gained additional powers to pass certain laws, and administer and manage lands, tax, and other responsibilities.

The Sechelt Indian Band is a full member of the SCRD with one director on the regional district's eight-member board. The director is appointed from the Sechelt Indian Government District. Like any other regional district member, the Band participates in some services, but not others, depending on whether the service benefits people in the Sechelt Indian Government District.

The Band also votes like any other member of the SCRD. For certain issues, a weighted vote is calculated according to the population each director represents (one vote per 2000 constituents). With a relatively small population in the region (827 of nearly 30,000), the director from the Sechelt Indian Band receives one of 19 votes. Currently, the Sechelt Indian Band SCRD director serves as the Vice-Chair of the Infrastructure Services Committee.

Westbank First Nation and the Central Okanagan Regional District (CORD)

The Westbank First Nation Self-Government Agreement was completed in March 2004 between the Government of Canada and the Westbank First Nation under the federal Inherent Right to Self-Government policy. As part of this process, Westbank developed its own constitution, membership code and land code which override *Indian Act* legislation.

Westbank First Nation is a non-voting member of the Central Okanagan Regional District (CORD). Westbank's appointed representative sits at CORD board meetings, and by invitation attends closed (in-camera) board sessions. Services are provided under a 15-year general servicing agreement that includes all the services of a typical municipality. The terms and services provided under the agreement are discussed once a year, and the parties meet every five years to review the agreement as a whole. Although the CORD provides the majority of services, the agreement also stipulates the provision of services by Westbank First Nation to participating areas of the regional district.

SECTION 2

About Regional Districts

Across Canada, various forms of regional government help coordinate the activities of municipalities and unincorporated rural areas (e.g., county governments, regional municipalities). These efforts aim to more efficiently provide services on a regional level and coordinate broader-scale land use, transportation and resource management planning. Across Canada, the structure, function, and authority of regional-level governments vary widely.

In BC, a unique federative model is used. Each regional district is comprised of its municipal and electoral area[3] members, and exists to serve their interests using "borrowed" power (i.e., a regional district functions based on consent or authorization from members).

The principal benefits of such an arrangement relate to the efficiencies that can be gained from operating on a regional level. By working in concert, members benefit from economies of scale, increased political clout, and coordinated growth management.

Established in 1965, regional districts have operated longer than any other form of regional government across Canada. This success is often attributed to their flexibility. Today, there are 27 regional districts in BC, covering almost the entire area of the province.[4]

The concept for regional governments in BC is based on a federative approach to governance. It is cooperative and flexible in nature — a representation of its members' needs and interests, not a separate, higher-level authority. In essence, regional district members determine how the regional district functions on the ground.

WHAT'S UNIQUE ABOUT BC'S REGIONAL DISTRICTS: The Federative Approach

BC's unique and innovative approach to regional governance is what makes it one of the more flexible systems for providing regional coordination in Canada. As a federation of municipalities and electoral areas, each member holds a seat on the board of directors and has input on decision-making. Regional districts are not a separate layer of governance sitting on top of the municipal system; they are *part* of the system. Aside from a few provincially mandated requirements, regional districts act only in response to the needs and instructions of their constituent members. Ultimately, regional districts provide members with a venue for creating voluntary agreements and partnerships with each other to provide services in the most efficient and effective way possible. With a few exceptions, members can choose the specific services they want to take part in, and to what extent. This makes regional districts ideally suited to the inclusion of First Nations members in agreements and allows for partnerships that can be customized to particular situations.

3 An electoral area is an unincorporated sub-area in a regional district as specified by the letters patent for the regional district. They are represented by an electoral area director who is elected or appointed under section 785 of the *Local Government Act*.

4 The Stikine Region was left out of the process that established BC's regional districts in 1968. With a total population of just over 1,000 people, it contains no municipalities and only one planning area in the community of Atlin.

This flexibility makes regional districts an appropriate venue for collaboration with new Treaty First Nation governments. Because they are adaptable to the needs of their members, regional districts can adjust in response to the changing operating environment that treaties introduce into the landscape.

Map: Regional Districts in BC

Functions and Structure

BC's regional districts have three main functions. First, they provide residents of unincorporated areas with basic local government services. They may, for example, provide water or sewer services, or manage land use planning and approvals. Second, they provide services that a single municipality or electoral area cannot provide on its own, such as major infrastructure projects (e.g., landfills, waste water facilities, airports, etc.), larger region-serving recreation complexes and facilities, and other larger projects. Third, they represent all regional district constituents on regional issues. This happens through the regional district board where each of the members, municipal and unincorporated, have one or more seats (depending on their population). Beyond these main functions, regional districts also provide a platform to lobby senior levels of government on broad, region-wide issues, challenges and opportunities.

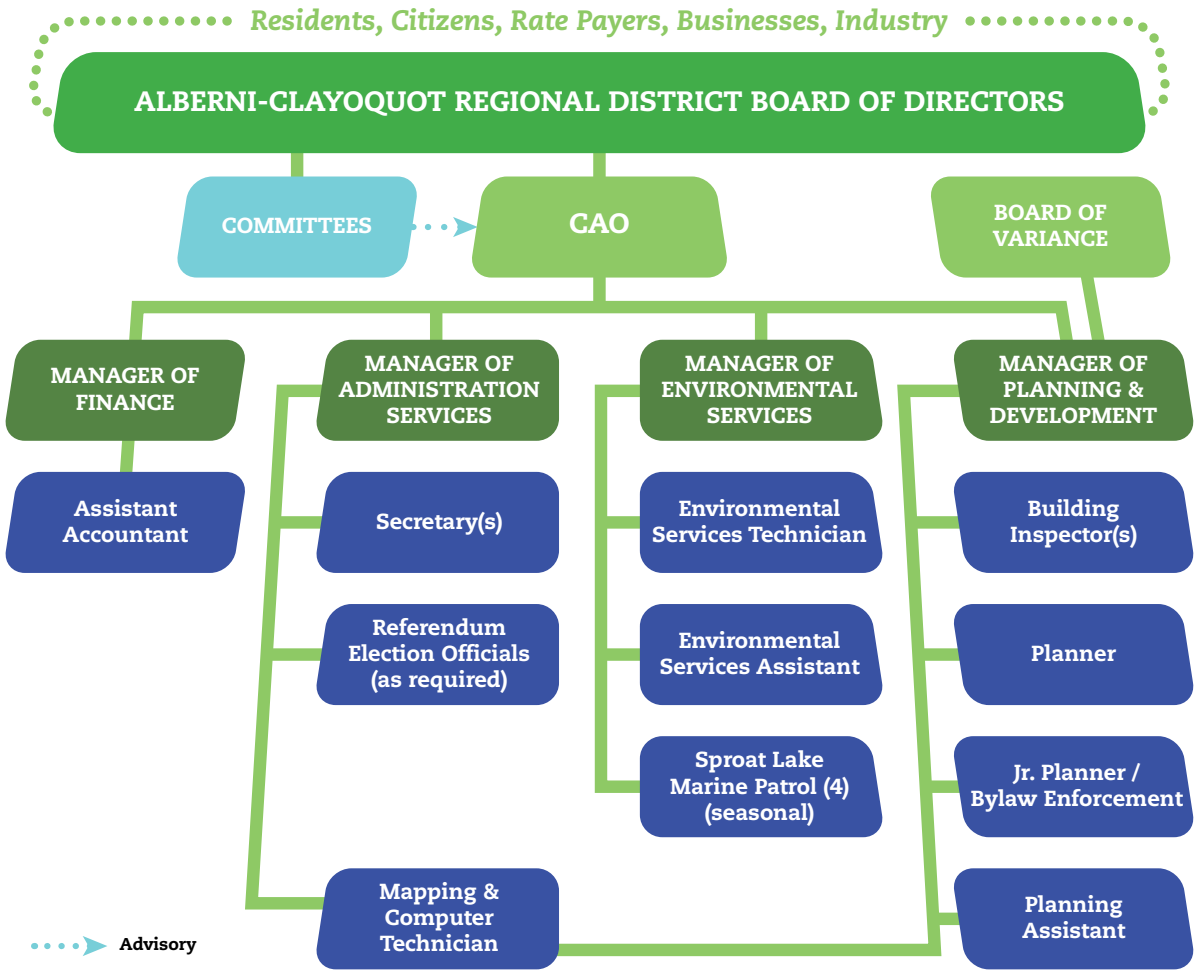
In some cases, a regional district may simply provide the structure for member municipalities and electoral areas to cooperate on providing services.

Regional districts have two main components to their organizational structures – the board of directors and staff. Regional district boards are made up of elected representatives from their member areas, including municipalities (cities, towns, districts) and unincorporated areas. Electoral area directors represent unincorporated areas and are elected directly to the regional district board by their constituents, while municipal directors are appointed to the board from among the municipality's elected council. Unlike electoral area directors, municipal directors have a mayor and council behind them and have staff to carry out administrative functions.

As with Treaty First Nations, regional district staff is typically organized into departments or other groupings that reflect functional efficiencies (e.g., planning and development, environmental services, parks and recreation, administration services, finance). Staff manages local government services for rural residents and also coordinates programs and services for the entire region. The Chief Administrative Officer (or equivalent) oversees staff and acts as a link between staff and the board.

The size and structure of the regional district staff vary depending on size, population, and the particular services and demands of the area. The figure illustrates the organizational structure of the Alberni–Clayoquot Regional District. While department names and internal structures will likely vary, they are included to illustrate what a "typical" regional district organizational structure looks like.

Figure: Sample regional district organization



Decision-Making

Regional district boards use motions to create the resolutions and bylaws through which they act. Since committees have no decision-making power, all voting occurs at the regular board meetings.

Voting can either be weighted or un-weighted. Vote "weight" for each director depends on the population the director represents. More densely populated urban areas typically require more people per vote than sparsely populated areas. In Greater Vancouver, for example, a director receives one vote for every 20,000 people. In the Regional District of Mount Waddington, a director receives one vote per 600 people. Each director can only have up to a maximum of five votes. However, more populous municipalities may have more than one director. In the Capital Regional District, where Victoria and the District of Saanich have by far the largest populations of the 16 regional district members, they have three and five directors, respectively.

ON THE GROUND
Regional District Decision Making

Every regional district is unique. Although in many ways the same rules apply, how each one operates "on the ground" can be quite different. And, although the combination of stakeholder and corporate voting can result in a complex set of rules, most boards strive to operate on a consensus basis.

Consensus is built through regular meetings held according to a schedule and set of meeting procedures established in a meeting procedure bylaw. Special meetings can be called at the request of the chair or any two directors.

Within the regional district board, only certain directors can participate in votes about certain decisions — this is known as vote entitlement. Whether or not a director is entitled to vote depends on their stake in the vote. Often this boils down to whether or not their area participates in a service. *Stakeholder* votes are reserved for the operation of services and only the participants of a particular service are able to vote on them. These votes are always weighted.

Voting that includes all directors is usually called a *corporate* vote and can be either weighted or un-weighted. Weighted corporate votes are used for all financial matters (e.g., approving the budget, borrowing money). Un-weighted corporate votes are used mainly for establishing service and regulatory bylaws, and for passing resolutions regarding service bylaws.

In most cases motions only need a simple majority to be passed (i.e., 50% of the vote plus one). Some matters, including employment termination, delegation of decision making to a commission, the exercise of emergency powers, and property tax exemptions require two-thirds support.

Service Delivery

One of the core functions of regional districts is to provide services on a cost-recovery basis for participating members. For unincorporated areas, regional districts often provide basic services like water and sewer, waste collection and land use planning. Municipalities typically offer these services independently and do not "participate" in these services at the regional district level. The flexibility of regional district service provision does, however, give the opportunity for municipalities to partner to provide certain core services like land use planning. The Regional District of North Okanagan (RDNO) provides community planning services to all electoral areas of the North Okanagan, as well as the participating municipalities of Armstrong, Enderby, Lumby and Spallumcheen. With other types of services such as economic development, E911 service, regional parks and regional planning, the regional district provides the services for all regional district members, including municipalities.

Each service provided within a regional district has its own *service area*, or custom boundary. Since most services are voluntary, service areas come in a variety of scales, from a single municipality or electoral area, to a combination of electoral areas, to portions of municipalities and electoral areas (i.e., neighbourhoods).

Since each service is provided on a cost-recovery basis, participating members are required to pay a fee that is, to the extent possible, equivalent to the cost of providing the service to their respective constituents. Though the fee each member must pay can be determined in different ways, the general idea is that members only pay for what they receive.

Most discussions at the regional district board are related to the services that the regional district coordinates among its members. The extent to which a director gets involved in voting related to servicing depends on whether their community is a service participant (i.e., they pay into and receive benefit from the service).

The principle of *shared interest* is central to regional district governance. Municipalities, electoral areas and Treaty First Nations choose to participate in services to share resources and specialized staff, realize economies of scale, and reduce costs to benefit member communities that could not provide the service on their own. They are also able to participate in services that may

ON THE GROUND
Mandatory Services: Different in Every Regional District

Each regional district manages its services differently and has different mandatory service requirements. For instance, in the Strathcona Regional District, emergency planning and preparedness is included as a mandatory service for all members to participate in.

These are above and beyond services legislated by the Province (i.e., solid waste management planning, liquid waste management planning, and hospital district funding).

provide larger, shared regional benefits (e.g., regional park planning, economic development). Typical services provided by regional districts include:

- Regional Recreation Facilities
- E911 Telephone Service
- Regional Library
- Regional Parks
- Regional Planning
- Building Inspection
- Economic Development
- Waste Management
- Emergency Planning
- Fire Protection
- Sewer
- Water

Service Creation

Each regional district has the authority to create, review and withdraw the services it provides, with the exception of those mandated by the Province.

Establishing a service begins with the identification of a service need. From there, the feasibility of the service is typically studied to clarify the purpose and identify the scope, establish costs and delivery standards, establish a process for review, etc. Once the service has been deemed feasible, a service-establishing bylaw is created. If the Province mandates a service (e.g., regional hospital district), no service-establishing bylaw is required; however, typically the service participants come together to agree on how the service will be delivered and managed.

If all relevant parties favour the bylaw in an un-weighted corporate vote, the bylaw is adopted and the service becomes active. Adopted bylaws need the approval of the BC Inspector of Municipalities, and the consent of the local areas that are identified as service participants in the service bylaw. Local consent can happen through referendum or be given on behalf of the local area by council, the electoral area director or the board itself.

Service Cost Apportionment

Each service has its own capital and operating budgets, and a separate fund set up to pay for them. The term "apportionment" refers to the method used to determine contributions from each participating local area to pay for its respective portion of the costs of providing a service. Property assessments are the most common apportionment method, often incorporated using a calculation known as converted assessment. A *converted assessment* is calculated by taking the assessed value of a property (based on BC Assessment Authority values), and applying a standard rate, called a class multiple, to the value, which varies according to property type (e.g., residential, commercial, industrial).

Other apportionment methods more commonly used to quantify the benefit each area receives from the particular service include:

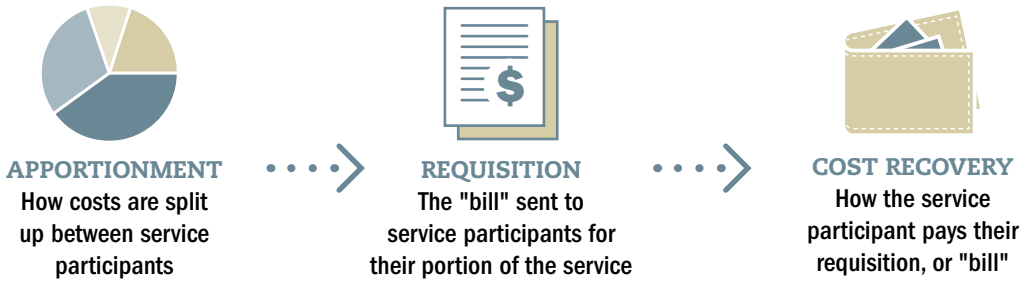
- **Dwelling counts:** service cost divided by the number of dwellings
- **Population:** service cost divided by the number of people receiving the service
- **Usage:** service cost based on service use (e.g., cost per visit, number of calls, by volume, by weight)
- **Land area:** service cost divided by gross land area of service participants

Apportionment can be based on any one of these methods, some other less common methods, or a combination of them.

Budgeting

With apportionment methods established for each service, the total must be worked into an annual five-year plan. This plan must be adopted by March 31st of each year. For regional districts, this means that service cost apportionment discussions typically start in the fall or winter, as all new service agreements and/or expansions need to be confirmed prior to March 31st.

Figure: Regional district service cost apportionment – how it works



Each year, all regional districts are required by provincial legislation to adopt a five-year financial plan bylaw before March 31. Except for emergency situations, all expenditures must be according to the financial plan, and may not exceed proposed funding sources.

SECTION 3

Getting 'On Board'

Recent experiences have demonstrated that collaboration between Treaty First Nations and local governments at the regional level will result in many benefits for all involved, including:

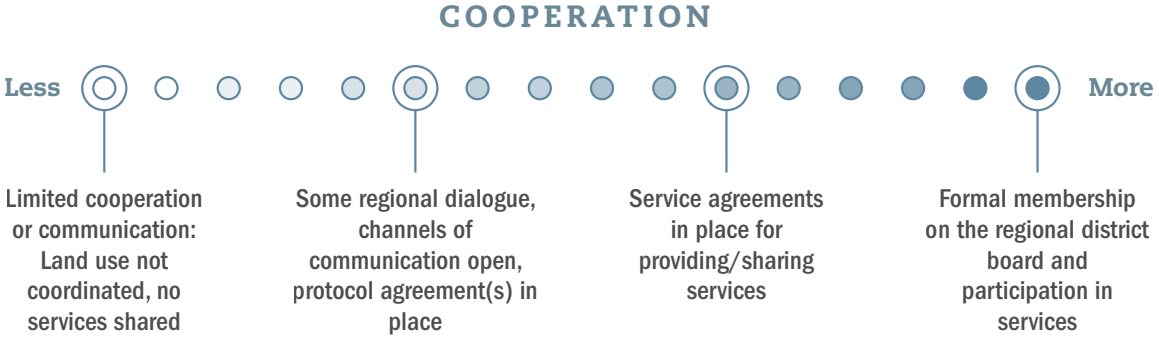
- ✓ Creating opportunities for service delivery efficiencies;
- ✓ Supporting the provision of higher quality services for residents;
- ✓ Improving regional planning (land use, economic development, natural resources, parks and recreation);
- ✓ Supporting regional sustainability planning initiatives; and
- ✓ Creating a stronger voice for regional interests.

While every treaty may approach Treaty First Nation and local government collaboration differently, this toolkit supports and encourages the concept of broad-based, integrated, collaborative regional planning. The treaty process itself provides a good opportunity to explore the nature of regional partnerships and their benefits, regardless of how they are addressed in each treaty.

ON THE GROUND
A Range of Cooperation and Collaboration

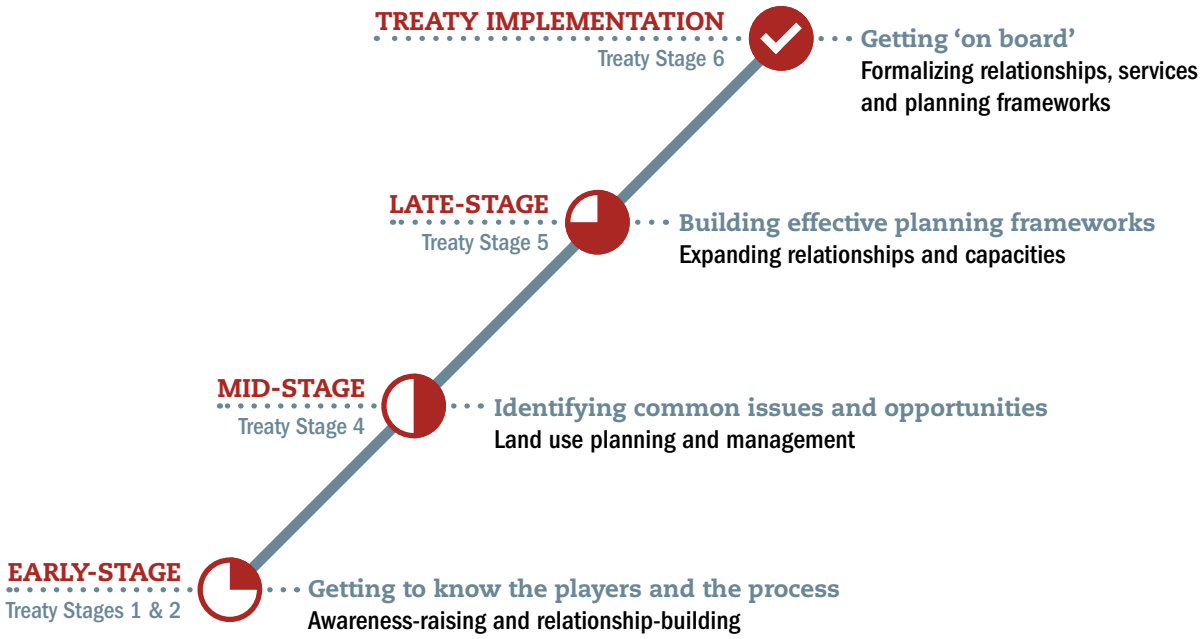
As not all treaties require First Nations to join their respective regional district governments, regional collaboration and cooperation can take many forms, from **protocol agreements** outlining the principles of cooperation, to stand-alone **service agreements** for specific services (e.g., solid waste, water, liquid waste).

Figure: Spectrum of cooperation between First Nations and regional districts



While challenges and relationship-building issues can occur, there are many tools and approaches to successfully overcome them, or avoid them altogether. This section helps identify some of the opportunities that are available at different stages of the treaty process, and offers tools to help take advantage of them. For the initial stages, the tools and opportunities featured are primarily focused on basic communications, awareness-raising and relationship-building, the cornerstones of effective and successful regional collaboration and cooperation. For the later stages, the tools offer support for clarifying complex planning considerations and structuring the decisions involved in the work of defining and implementing new regional partnerships and servicing arrangements.

The opportunities and tools in this section are organized to mirror the BC Treaty Commission's six-stage treaty process.



It is important to note that use of the tools suggested should not be limited to the treaty stages they are associated with – if a regional district or local government enters discussions later in the process (e.g., Treaty Stage 5), tools, tasks and opportunities from earlier stages should still be explored, as many can be undertaken at later stages.

EARLY-STAGE (Treaty Stages 2-3)

Getting to know the players and the process — awareness-raising and relationship-building

Waiting for later stages to address issues that might arise between Treaty First Nations and local governments can mean missing important opportunities to start building relationships, avoid potentially time consuming misunderstandings, and identify future regional opportunities (land use planning, service delivery, economic development, etc.) that a final treaty could help leverage.

Establishing clear channels of communication between First Nations and local governments as early as possible, bringing staff and elected representatives up to speed on the treaty process, and getting to know First Nations neighbours is an important step in relationship-building, identifying future potential treaty implementation issues and avoiding or mitigating them.

Opportunities

- **Get involved in the negotiating process:** In the framework process set out by the BC Treaty Commission, local governments are provided opportunities to participate in treaty negotiations as part of the provincial team on issues relevant to them. These are set out in a Memorandum of Understanding between the Union of BC Municipalities[5] (UBCM) and the Province. Local governments may also wish to establish a Treaty Advisory Committee to sit in as an observer at the treaty table (see text box).

- **Establish a staff member who is responsible throughout the process:** In the early stage of negotiations it may be useful for the local government and/or First Nation to identify a staff position as a treaty liaison or resource officer that is

ON THE GROUND
Treaty Advisory Committees

Local governments who may be impacted by treaties often establish a Treaty Advisory Committee (TAC). The TAC coordinates and represents the collective interests of potentially affected local governments and can help build relationships between local government staff and elected officials, and the negotiating First Nation(s), BC and Canada. A TAC representative can sit as an observer at the treaty table and report back to the regional district on the status, progress and issues arising during negotiations. The representative is also responsible for ensuring that the TAC's interests are heard and, ideally, reflected by provincial negotiators.

Many regional districts have established TACs (which are in various levels of activity), including Metro Vancouver, Cowichan Valley, Bulkley-Nechako, Capital, and Fraser-Fort George Regional Districts.

5 The Union of British Columbia Municipalities (UBCM) is an association of local governments (municipalities and regional districts) founded in 1905 to provide a common voice for local government in BC. They develop common policies at their annual convention and provide various resources to members. UBCM offers grant programs that provide funding to support relationship-building between local governments and First Nations.

responsible for stewarding regional governance relationships. On the local government side, this person could be responsible for building a resource library of available tools and information (see Section 4 for examples) and be the main point of contact for First Nations involved in treaty negotiations. The individual could also be tasked with building linkages and relationships with the BC and Canada negotiating teams and/or coordinating a local Treaty Advisory Committee.

- **Tap into existing resources and funding:** At this early stage, it is important to highlight the number of resources available to support local governments in the larger treaty process. From this toolkit and lessons learned by the Ministry of Aboriginal Relations and Reconciliation, to materials developed by UBCM, the Canadian Federation of Municipalities, the BC Treaty Commission and others, there are considerable resources available to learn about the treaty process. Many of these resources are highlighted in Section 4. There are also funding programs available through UBCM and other agencies to support relationship-building between local governments and First Nations (e.g., Community to Community Forums – see text box).

ON THE GROUND
Community to Community Forums – an avenue for building relationships and tackling issues

In January 1997, the Union of British Columbia Municipalities (UBCM) and the First Nations Summit jointly organized the first province-wide Community to Community (C2C) Forum. The event brought together First Nations and local governments from across BC to discuss common goals and opportunities for joint action. Since 1999, with continued provincial and federal support, more than 340 Regional C2C Forums have been held in communities across the province.

Useful Tools

Some of the specific tools that can be used during early-stage treaty negotiations include the following:

Tool 1 – Introductory Fact Sheet: A fact sheet can be useful in the initial stages of treaty negotiations to introduce the Treaty First Nation to the other partners in the regional district and help build understanding of the larger, province-wide treaty-making process, around which there is still limited public awareness and some widely held misconceptions.

Tool 2 – Treaty 101 Presentation: Developing a simple, overview presentation on the treaty-making process in BC and the general scope and components of treaties can be done using existing resources and templates available from the Ministry of Aboriginal Relations and Reconciliation and the BC Treaty

Commission. The presentation can be made available on regional district websites and delivered at community events to help answer basic and common questions that local government staff, elected officials and residents might have around the treaty process in general, and existing final treaties (e.g., timelines, Treaty First Nation law-making authority, BC Building Code compliance for Treaty First Nations, how treaties are paid for by First Nations). The presentation could also highlight the successful regional governance initiatives that have occurred elsewhere in BC (e.g., First Nations of the Maa-nulth Treaty and the Alberni-Clayoquot Regional District, Tsawwassen and Metro Vancouver, Tla'amin and Powell River Regional District).

Additional information and templates for these tools is provided in Section 4, Resources.

ON THE GROUND
Who needs to be involved?

The treaty process is a long and complex undertaking that is generally not well understood by many groups, or stakeholders, in a region. Educating these groups on the treaty process can also be challenging, as they all have unique needs with regard to communications and different levels of awareness of the treaty process. Outside of the negotiating First Nation, some of these groups include:

- Local elected officials
- Local government staff
- Residents and constituents
- Other First Nations

Understanding who needs to be engaged and how is an important first step in helping build greater awareness and understanding of the local treaty process and the opportunities it might generate for the region.

MID-STAGE (Treaty Stage 4)

Identifying common issues and opportunities — land use planning and management

More defined opportunities for regional district involvement in the treaty process often start at Stage 4, negotiation of an Agreement-in-Principle. This is the stage when the majority of the general details of a treaty are worked out, including many that are of specific interest to local and regional governments, such as the selection of TSL and the nature of participation in regional governance.

While the selection of TSL can be a sensitive topic, it is also an area where regional districts and local governments, particularly those with regional growth strategies, can provide information on their land management practices and plans to negotiating First Nations. The selection of TSL often involves residential and economic development considerations, some of which could be influenced by a number of regional district land management factors, including:

- Existence of a regional district growth boundary or urban containment boundary outside of which connections to regional district and municipal services (if planned/considered) might be difficult;
- Potentially conflicting land use designations on abutting TSL and regional district/municipal parcels (e.g., industrial designated land next to residential designations – existing, planned, or potential);
- Opportunities to expand or enhance protection of environmentally and/or culturally sensitive land; and
- Avoidance of development hazard areas (e.g., unstable slopes).

The more complex technical and administrative matters associated with this stage of the process allow involved parties to build on the initial understanding and the relationships established early on by becoming more familiar with the specific issues and inner workings of each others' communities.

ON THE GROUND
What's a Regional Growth Strategy?

A regional growth strategy, or RGS for short, is a strategic plan that defines a vision for a more sustainable pattern of population growth and development in a region over a 25-year period through such strategies as:

- *Encouraging more compact development by directing new development to designated areas;*
- *Protecting environmentally sensitive areas and open space;*
- *Maintaining the integrity of rural areas and resource areas, including agricultural lands;*
- *Increasing servicing efficiency and greening infrastructure; and*
- *Improving transit, bike and pedestrian mobility within the region.*

Once adopted, all regional district members, including any Treaty First Nations, are required to update their official community plans to ensure that they align with RGS directions and principles.

OPPORTUNITIES

- **Discuss and share land use information:** This stage provides an opportunity for the First Nation to begin learning about the land management regime and processes at the regional district and municipal level and provides an opportunity to begin building relationships and setting up systems for continued collaboration and cooperation. This juncture also provides an opportunity for the regional district to offer technical capacity or resources, such as mapping data or aerial photography to support the First Nation's community land use planning process.

- **Discuss potential service opportunities:** It is also a good time for a regional district to start sharing information on the range of services it provides and gauge interest on which ones the First Nation may be interested in. Reciprocally, it is also a good time for the regional district to learn about the First Nation's own services, some of which may be of interest to the regional district (e.g., some First Nations may have modern waste water treatment or drinking water facilities that may have surplus capacity and could be extended to neighbouring areas of the regional district).

- **Bring regional governance issues to the negotiating table:** While regional governance will always be considered during treaty negotiations, it is during this stage that a Treaty Advisory Committee (if one has been established) or a regional district board could make a request to either the Province or the participating First Nation to consider specific regional governance issues in the Agreement-in-Principle.

A CASE IN POINT
Tla'amin Nation (Sliammon First Nation) - Powell River Regional District Land Use Harmonization (2008)

The Tla'amin First Nation - Powell River Regional District (PRRD) Land Use Harmonization initiative was launched in November 2007 to identify opportunities for coordinating land use planning between PRRD and Tla'amin, particularly around potential Treaty Settlement Lands. The project resulted in a list of 21 recommendations for both the PRRD and Tla'amin to consider including in their current land use plans and in any new plans developed for the region. The recommendations were generated by a project steering committee made up of senior staff and political representatives who met several times over the course of the project. The final strategy included both general recommendations that would apply to each of the six geographic issue areas identified during the project and several site-specific recommendations. The project also resolved one of the most contentious land use issues – the recognition of a fee simple property and historic former village site (owned in part by Tla'amin) as a parcel of Treaty Settlement Land.

- **Maintain relationships:** During mid-stage treaty negotiations, it is also important to maintain and further develop any communication systems or networks set up during early-stage treaty processes, particularly if a regional district liaison or resource officer position/portfolio was established. Ongoing tasks include items like:

    - Scheduling regular check-in meetings between First Nations and regional district staff (quarterly or semi-annually during earlier, mid-stage treaty period);
    - Creating a recurring agenda item at regional district board meetings for updates on the treaty process (quarterly or semi-annually during early- to mid-stages); and
    - Maintaining and updating contact lists.

A CASE IN POINT
K'ómoks First Nation – Comox Valley District Regional Growth Strategy Coordination (2009/2010)

In 2009, while in Stage 4 of their treaty process, representatives from K'ómoks First Nation met with representatives from the Comox Valley Regional District (CVRD) at a series of specially convened sessions. At that time, the CVRD was developing a Regional Growth Strategy (RGS), a high-level land use planning document that sets out the planning principles and higher level land use designations to help align and direct lower level local government plans (e.g., Official Community Plans) to meet regional sustainability and land use goals and objectives. The planning team introduced K'ómoks to the RGS process so that they could see how regional land use designations could either help or hinder the development of potential Treaty Settlement Lands (which were being negotiated). The sessions, along with ongoing relationship-building, helped K'ómoks better understand long-range regional land use planning goals and their implications for future TSL (i.e., suitability for longer-term development and potential CVRD servicing).

USEFUL TOOLS

Some of the specific tools that can be used during this stage of treaty negotiations include:

Tool 3 – Community Visit/Tour: In many cases, elected officials and staff from local governments have never had the opportunity to visit local First Nations to see their communities or meet elected officials and members. A visit to First Nation communities can help establish greater understanding and facilitate relationship-building and discussion.

Tool 4 – Frequently Asked Questions (mid-stage): A frequently asked questions (FAQs) fact sheet can maintain public awareness of the treaty process and keeps regional district community members, local government staff and elected officials up to date on the process. FAQs can also help dispel common myths around TSL selection and future TSL management. Providing clear answers to common questions can create public dialogue that is better informed and supportive of further cooperation.

Additional information and templates provided in Section 4, Resources.

ON THE GROUND
Negotiating treaties – costs and time

Negotiating a treaty is a long and expensive process. First Nations can access loans to participate in the treaty negotiations, the bulk of which is to be paid back after the treaty becomes effective. Given the capacity requirements, time and financial costs, not all First Nations who embark upon the treaty path complete the journey. Some First Nations have opted out of negotiations or put negotiations on hold. Regional districts need to be aware of the time, cost and capacity challenges and also recognize that not all treaty processes initiated within their region may be completed.

LATE-STAGE (Treaty Stage 5)

Building effective planning frameworks — expanding relationships and capacities

In the cases of both the Tsawwassen and the Maa-nulth Treaties, Stage 5 of the treaty process – negotiation of a Final Agreement and ratification of the agreement by the First Nation – took several years to complete. During this period, the resources and capacity (time) of First Nations are limited. This is due to protracted treaty time lines (see text box), combined with the First Nation's understandable focus on community ratification of their treaty.

These demands also mean that this stage can be a difficult time to build relationships, particularly if those steps have not been taken during earlier treaty stages. Ideally, relationships between regional districts and neighbouring First Nations are already established before late-stage treaty negotiations. Greater participation on the part of the regional district may be required to maintain the relationship that has already been developed.

Despite the inherent challenges faced during this time, establishing lines of communication in this stage (rather than waiting until post-treaty) is critical to anticipating and managing regional planning considerations that may emerge in the treaty implementation process.

OPPORTUNITIES

- **Expand land use and servicing discussions:** If it hasn't already been done at earlier stages in the process, this stage does provide a time to jointly discuss and explore potential land use coordination and opportunities that may arise post-treaty. This may include land use harmonization projects or protocols to ensure regional land use planning is coordinated between areas.

ON THE GROUND
Treaty time lines – the last, long push

In general, after First Nation members have ratified a treaty it can take between three and five years for the treaty to be ratified by the Province and Canada and actually come into effect.

Provincially, it can take between six months and a year to make necessary amendments to provincial laws to ensure they are compatible with treaty elements. Only after this is completed will the Province enact settlement legislation.

After the Province has adopted its specific treaty legislation, Canada will start its ratification and enactment process. Depending on when Parliament sits and other factors, it can take almost two years after a community has ratified a treaty for it to become law federally. After federal ratification, it can take another 18 months to two years for the treaty to become effective.

This time poses significant demands on First Nations, particularly as loan payments for the negotiation process stop after community ratification and only begin again once the treaty has been ratified by BC and Canada. So, all told, it can take between **three and five years** for a treaty to become effective once the community has ratified it.

- **Maintain relationships:** At this stage the First Nations treaty office may shrink in size and/or new staff members may come on board to help with the treaty ratification process. When it occurs, this turnover can make the relationships between regional districts and neighboring First Nations difficult to maintain. Engaging with new staff is important to keeping lines of communication open and to leverage any earlier relationship-building. Given these potential issues, greater participation on the part of the regional district may be required to maintain a relationship that has already been developed. Other ongoing communication tasks include:
    - Scheduling regular check-in meetings between the First Nation and regional district staff; and
    - Creating a recurring agenda item at regional district board meetings for updates on the treaty process.
- **Provide technical support:** While many First Nations have good land use planning and sophisticated mapping capacity, some regional districts may have greater capacity (staff, equipment, data, aerial imagery) that could be used to help support First Nations partners. Should a First Nation have capacity, a regional district could simply provide map data to them. In cases where capacity may be more limited, a regional district could generate maps to support both joint planning and service expansion discussions, along with supporting community engagement and awareness-building. For example, a regional district could generate a map showing TSL that could be used as part of a community information campaign (see Tools 5 and 6).

USEFUL TOOLS

Some of the tools that can be pursued during this stage include the following:

Tool 5 – Individual or Jointly Produced Community Newsletter: Leading up to ratification of a treaty by a First Nation and following, it can be helpful for a regional district to put out a newsletter or simple notice advising residents of the vote and providing an overview of the treaty and any collaborative planning between the First Nation and the regional district that has occurred. The newsletter could be mailed out in regular regional district mailings (e.g., bills or other notices), posted on the website, and emailed to residents if the regional district maintains an email list. It would also benefit if the Regional District and the First Nation produced joint community newsletters.

Tool 6 – Community Information Poster: Once a First Nation has ratified a treaty, it can be helpful for a regional district to develop a community information poster. The poster would cover the same information as the newsletter (i.e., advise residents of the vote, provide an overview of the treaty and any collaborative planning undertaken between the First Nation and the regional district). The posters could be laminated and/or mounted and displayed at regional community venues (e.g., libraries, recreation centres), regional

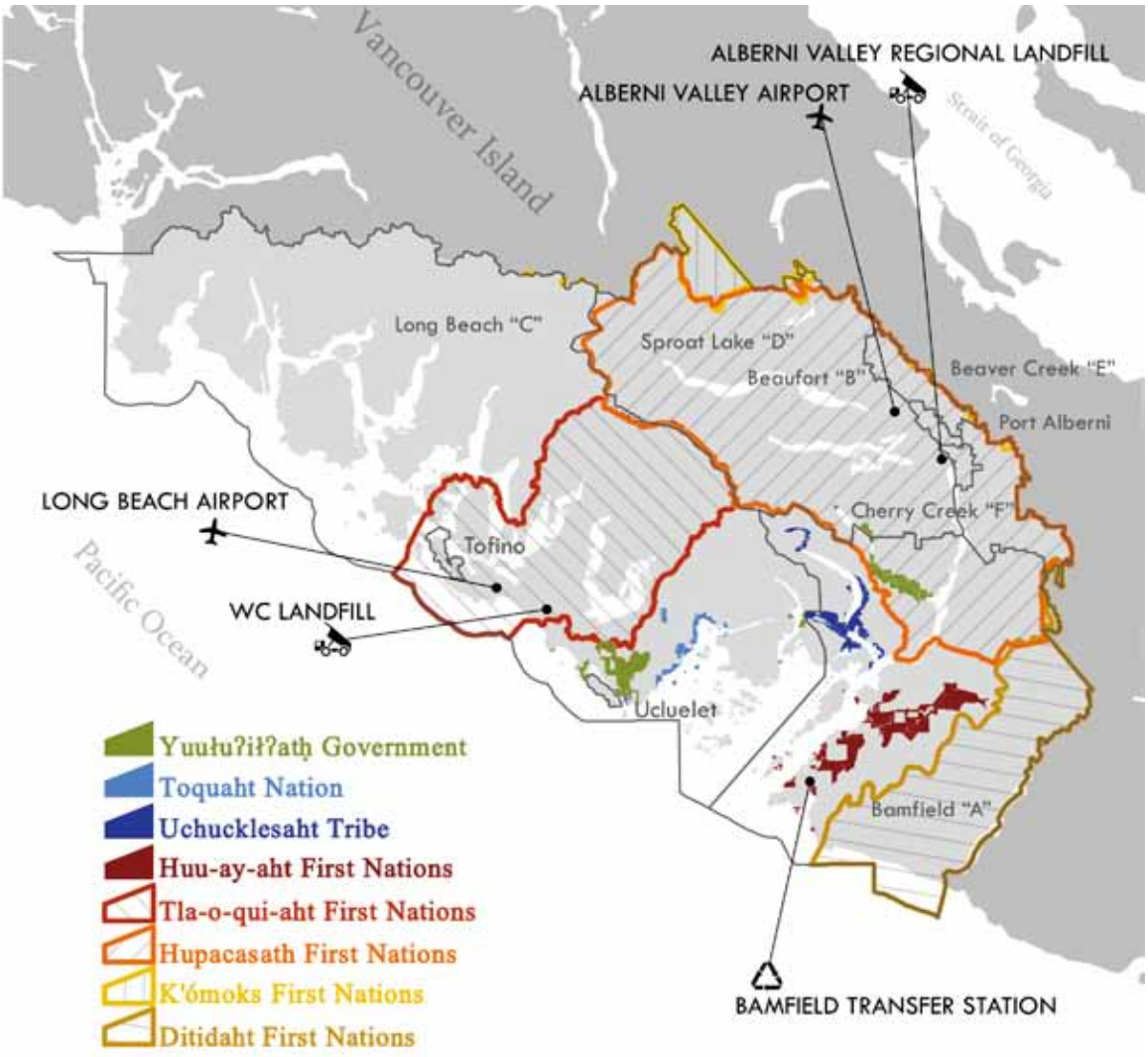
district offices, and at community events (e.g., festivals, farmers markets). As with Tool 5 there could be added benefits if the First Nation and regional district complete a community information poster jointly.

Additional information on these tools and templates are provided in Section 4, Resources.

A CASE IN POINT
Major service infrastructure, traditional territories and protocol agreements

In some cases, a Treaty First Nation may wish to participate in a service located on another First Nation's traditional territory. In these cases, a protocol agreement between the two may be required. To help determine whether protocol agreements are necessary, a map can be created that illustrates major service infrastructure and traditional territories in a regional district.

Such a map was created to support the Alberni-Clayoquot Regional District servicing discussions, as one service – Long Beach Airport – was located entirely on another First Nation's traditional territory. The map also located other major facilities, including landfills and transfer stations, and will be used to support service discussions as other Treaty First Nations join the regional district.



TREATY IMPLEMENTATION (Treaty Stage 6)

Getting 'on board' — formalizing relationships, services and planning frameworks

Completing treaties requires significant and serious effort from First Nations, BC and Canada. As treaty implementation begins, First Nations face a significant workload in implementing the new legislation, systems, policies and procedures that are mandated by the treaty to support self government. Once a treaty is ratified by the First Nation, BC and Canada and takes legal effect (i.e., becomes "effective"), even more work begins for the Treaty First Nation. **Starting up a new government, no matter the size, is no small task.**

The first steps taken in the transition to regional governance cooperation following a treaty's effective date are critically important. What needs to happen in a given region will ultimately depend on the treaty itself and the characteristics, needs and interests of local governments involved. Common and fundamental opportunities between local governments and Treaty First Nations exist to help guide this process.

OPPORTUNITIES

- **Organize a formal review and presentation of the treaty:** An essential step is to formally review the final treaty document to clearly understand the form, function and authority of the new Treaty First Nation government and its relationship to other local governments. A treaty can include provisions around joining the regional district, service provisions, land use harmonization and the like. It is important to note that each treaty may have different provisions relating to regional governance. For example, the Maa-nulth Treaty requires the five Treaty First Nations to join their respective regional districts within 10 years of the Treaty's effective date[6]. The review could include a formal presentation on the treaty and its relevant chapters from the new Treaty First Nation along with representatives from the Ministry of Aboriginal Relations and Reconciliation.

- **Invite a Treaty First Nation observer to the regional board:** If the regional district hasn't done it already, a representative from the new Treaty First Nation government should be invited to participate in regional district board meetings as an observer. It is an excellent way to provide the exposure necessary for both the new Treaty First Nation and the regional district to "test the waters", learn more about one another's governments, and continue building a positive, cooperative relationship (see Case in Point).

6 Huu-ay-aht First Nations, Yuułuʔiłʔatḥ Government, Toquaht Nation and Uchucklesaht Tribe are all located in the Alberni-Clayoquot Regional District, while Ka:'yu:'k't'h'/Che:k'tles7et'h First Nations are located in the Strathcona Regional District

- **Take a closer look at servicing:**
  If not explicitly spelled out in the treaty, it is also at this stage that the formal relationship between the Treaty First Nation and regional district in terms of services will likely begin to be structured. Typically, service participation can happen in one of two ways:

  - Treaty First Nations **formally join the regional district** and participate more broadly in decision making around the planning, development, delivery and costing of services. This is the case with Tsawwassen First Nation and the First Nations of the Maa-nulth Treaty (although only two of the five Treaty First Nations of the Maa-nulth Treaty sit on the board as of this toolkit's publication).

  - Treaty First Nations and regional districts can develop **service agreements**, which are contracts that spell out the nature of service provided and compensation due, and which can be limited to a single service, or include multiple services. There are many examples of such agreements and best practices (see Section 4, Resources).

ON THE GROUND
Service agreements versus service participation

Service agreements: A service agreement is a contract between governments. It stipulates what service is being purchased and how it will be paid for. Many First Nations in BC have signed service agreements with regional districts and local governments, either to receive services or to provide them. While service agreements can share similar clauses and structures, they also vary widely depending on the local context, the service being delivered, and the payment structure for the service. The CivicInfo BC website (www.civicinfo.bc.ca) provides examples of service agreements between First Nations and local governments. The Federation of Canadian Municipalities also provides a Service Agreement Toolkit (See Section 4, Resources).

Service participation: Service participation refers to how regional district members take part in voluntary and mandatory services. While a regional district Treaty First Nation member can sign a service agreement for a new service, it is more likely that they will become a service participant. Service participation at the regional district level typically requires the amendment of the particular service bylaw to include the new participant. While the *Local Government Act* lays out some of the process of amending a service bylaw, the procedures may vary somewhat depending on the type of service and the regional district itself. Service participation may require additional work if the Treaty First Nation service participant requires the use of an apportionment method that is different from the method used in the existing service bylaw. Regional districts themselves can provide additional information on service participation. The Union of British Columbia Municipalities' Regional District Toolkit is another helpful resource (see Section 4, Resources).

USEFUL TOOLS

Some of the specific tools that can be used during this stage include the following. Tool 8 is a more comprehensive tool that is broken into a series of steps. Additional information and templates are provided in Section 4.

Tool 7 – Satellite Board Meetings: In the case where a Treaty First Nation joins a regional district, there is an opportunity to hold satellite board meetings in the community. These meetings provide an excellent opportunity to both introduce other directors and regional district staff to the community (particularly if a community tour, Tool 3, is organized) and for elected representatives from the Treaty First Nation to meet some of their counterparts from neighbouring communities.

Tool 8 – Structured Decision-Making for Service Participation: In considering service expansion, provision, or cooperation between a Treaty First Nation and local governments, a number of questions will be faced. *What services are needed and why? What services are needed first? How does potential service participation relate to, and support, long-term planning goals?* Answering these questions using a more structured decision-making approach involving both the Treaty First Nation and regional district can be helpful. The decision process should consider both the practical, technical issues (time, cost, process) and use jointly developed service objectives to evaluate potential services (e.g., improved quality of service, relationship-building, cost reduction) to help prioritize service uptake (i.e., given the capacity constraints with both the Treaty First Nation and regional district, uptake of voluntary services will likely be phased in over several years).

A CASE IN POINT
Observer Status: In their own words...

"The opportunity to become more familiar with local government, in general, was a great benefit. In our experience, each of our communities has always had a bit of a wall separating us. Before sitting in as an observer, there were limited opportunities to develop a relationship.

So, the best reason to be there was having that initial opportunity to introduce us to the decision makers and ACRD staff. In addition to learning from me about Huu-ay-aht, I was also able to learn what local governments do, why they do it, and how they do it. All of this learning contributed to a greater sense of understanding between our communities.

Looking back, building that awareness and familiarity on both sides has done much in fostering an honest and productive relationship."

John Jack,
Huu-ay-aht First Nations Councillor
and Alberni-Clayoquot Regional District
Director

ON THE GROUND
Service apportionment and TSL: challenges and realities

While there are considerable benefits for both Treaty First Nations and regional districts in formalizing their relationship at the regional board table, some issues remain with service apportionment methods, at least in the short-term, which will need to be addressed and managed.

Property assessment and tax rolls: The BC Assessment Authority (BC Assessment) conducts annual property assessments for all properties in the province. These assessments form the basis for the values used in the net taxable land calculations that are widely used by regional districts to apportion many service costs. As of now, tax rolls for Treaty First Nation TSL are somewhat limited and incomplete. The reason for this is twofold. First, BC Assessment's records are limited with TSL because the First Nation reserve lands converted to TSL were formerly Federal Crown lands and not assessed. Second, many large portions of TSL that were formerly Provincial Crown land were also not surveyed or assessed. When a Treaty First Nation provides notice of its intent to become a taxing authority over its TSL, BC Assessment will work to carry out assessments and create a tax roll prior to the Treaty First Nation taking over as the taxing jurisdiction. Given the scale and scope of the survey and assessment work, however, the development of a complete and thorough tax roll will take time.

Collective ownership, land tenure and limited taxable properties: Taxable land values are very low on existing TSL, as the land is owned by the Treaty First Nation government and not taxable. Only leasehold lands on TSL are taxable. While taxable lands will be at their lowest value directly following the treaty effective date, Treaty First Nations are looking to both increase the value of their land base through economic development initiatives (i.e. new leasehold developments) and are exploring different land tenures, some of which may include individual or taxable ownership. While the land tenure situations change and evolve, at the outset it will be difficult to use more conventional service apportionment methods like net taxable lands (converted assessment).

Service Participation: Bigger Questions, Bigger Process

Participating in regional district services, or providing services to a regional district is a big decision and can be a major focus of planning activities during the treaty implementation stage. Whether a new Treaty First Nation is simply a stakeholder or chooses to become an active partner in regional governance, and formally joins a regional district will depend on many factors. To be sure, every Treaty First Nation and regional district will need to consider a unique set of circumstances, including the region's population and demography, local geography, current services, the local land use planning context, and other issues.

In some cases, Treaty First Nations may be remote and far removed from service area boundaries, making most service participation impractical. In others, it is possible that a Treaty First Nation service participant could create additional demand beyond the existing capacity (e.g., a water treatment plant that cannot handle more volume). In these cases, service cooperation may not be an option, or only available in the long-term after the service is expanded or improved.

For the most part, service participation and formal participation at the regional table can create benefits and opportunities that outweigh short-term challenges. Some of these benefits include:

- **Reduced service costs:** Bringing more households into a service area can help realize economies of scale and cost efficiencies both on the ground and operationally. By involving more residents in a service area, cost efficiencies can be achieved for everyone involved.
- **Improved services:** A new Treaty First Nation may also provide the critical mass to justify an infrastructure enhancement project that will improve the quality of service for all. Where more households can be served, there may be greater opportunity to access additional senior government funds for infrastructure development to improve and expand services (e.g., fire protection). A Treaty First Nation may also operate and/or build new facilities that can be shared with a regional district.
- **A stronger regional voice:** Participation by Treaty First Nations at the regional district level can result in a stronger voice for lobbying governments. This can help leverage new funding, create better traction for large-scale projects, and provide certainty and clarity in terms of a regional vision.
- **Improved and expanded regional dialogue and communication:** The process of working together to make decisions about service delivery can create opportunities to address and discuss a broad range of issues, such as economic development, land use planning, regional recreation facilities, and the like. It also provides a venue for discussing services, whether or not Treaty First Nations are currently participating in them. Beyond servicing, there is significant value in being at the table for broader discussions around issues of regional concern for all parties.

A CASE IN POINT
Creative thinking for service apportionment

The *Local Government Act* permits regional districts to use a number of methods to apportion services. Net taxable property (converted assessment) is probably the most common. Other methods include dwelling unit, land area, population and use (number of calls, volume of water consumed, etc.). Given the low current land values and limited number of taxable properties on TSL, net taxable property is low. Therefore, it is likely necessary to explore other methods or look for more creative solutions that result in members paying their "fair share" for a service, while avoiding unnecessary complexity.

In the Alberni-Clayoquot Regional District, the board reached an innovative decision by consensus to apportion one of the mandatory service areas identified by the Maa-nulth Treaty — general government service. Recognizing that using the regional district's current apportionment method, net taxable land, would not cover their share of the service, the two Treaty First Nations decided to pay for the costs of their directors directly (the Huu-ay-aht Councillor and Yuułuʔiłʔath Legislator are paid positions whose responsibilities include the regional district directorship portfolio). The regional district maintained the same apportionment method (and avoided procedural difficulties associated with changing the apportionment method) and agreed that it would be sufficient to cover travel costs and other associated minor fees. As the tax rolls for both Treaty First Nations are expected to increase over the coming years, it was agreed to review the agreement in three years and to make any required revisions.

Welcome!
REGIONAL GROWTH STRATEGY REVIEW
2 Our Changing Region
3 Community Visioning
4 Issue Areas - What Matters Most?
5 Community Workbooks
FUTURE OK

SECTION 4

Tools and Resources

The tools and resources in this section are provided to help Treaty First Nations, regional districts and local governments capitalize on opportunities to strengthen their relationships and improve region-wide planning and collaboration throughout the treaty process.

The tools are organized according to their application during the stages of the BC Treaty Commission process outlined in the previous section. However, most of the tools can be used at any stage throughout the treaty process and during treaty implementation.

Early-Stage (Treaty Stages 2-3)

Getting to know the players and the process – awareness-raising and relationship-building

- Tool 1 – Fact Sheet
- Tool 2 – Introductory Treaty 101 Presentation

Mid-Stage (Treaty Stage 4)

Identifying common issues and opportunities – land use planning and management

- Tool 3 – Community Visit/Tour
- Tool 4 – Frequently Asked Questions

Late-Stage (Treaty Stage 5)

Building effective planning frameworks – expanding relationships and capacities

- Tool 5 – Community Newsletter
- Tool 6 – Community Information Poster

Treaty Implementation (Treaty Stage 6)

Getting 'on board' – formalizing relationships, services and planning frameworks

- Tool 7 – Satellite Board Meetings
- Tool 8 – Structured Decision-Making for Service Participation
- Tool 8A – Service Evaluation Decision Process
- Tool 8B – Service Evaluation Objectives and Measures
- Tool 8C – Service Evaluation and Prioritization

The tools are followed by an overview of additional resources that can be used to support regional planning and collaboration efforts and initiatives.

EARLY-STAGE TOOLS

Getting to know the players and the process — awareness-raising and relationship-building

TOOL 1 - FACT SHEET

Time Required

1–2 days of direct staff time, likely spread out over 1–2 weeks including liaising with information holders, getting approvals, etc.

Description and Rationale

A fact sheet is a concise backgrounder that provides the negotiating First Nation(s), regional district and local governments with information on the functions and structure/organization of the different governments, the treaty process (i.e. British Columbia Treaty Commission Statement of Intent for the First Nation), known treaty issues and proper terminology (names, titles, pronunciation) and protocols (meetings, referrals) for the parties. It is to be distributed to staff and council of participating First Nations, regional districts and municipalities, as well as made available to citizens of all involved communities.

Procedure

Involve all parties (participating First Nations, regional district representatives and staff, etc.) in providing key information and consult with the Province to confirm that the content is accurate and appropriately presented.

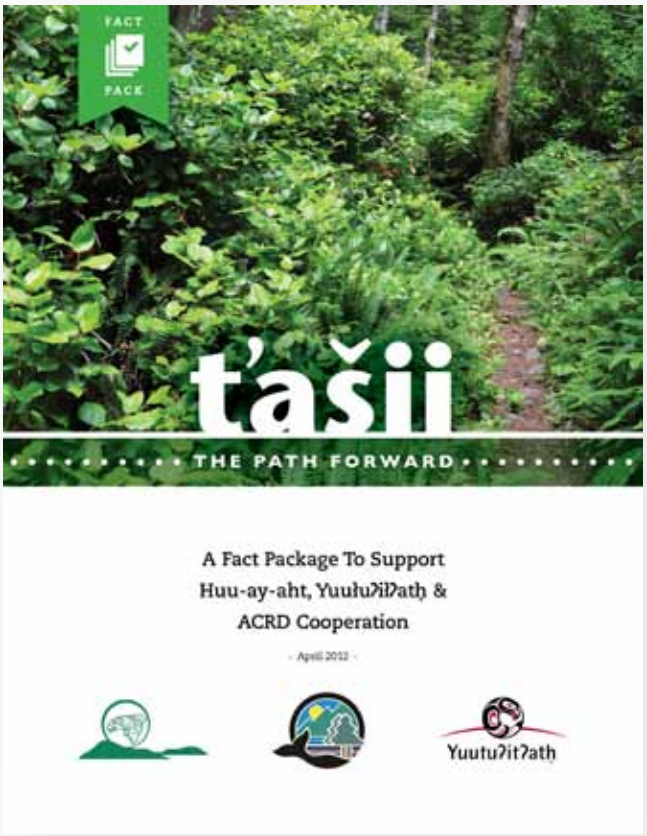
Content

The following elements may be useful to include in a fact sheet or package:

- Summary of treaty negotiation dates, timelines, and key documents (Statement of Intent);
- Terms and terminology: proper names, titles and pronunciations for the First Nation(s), elected officials, hereditary leaders, community members and the like;
- Organizational structures: regional government, negotiating First Nation(s);
- Regional district board members;
- Regional district committees; and
- Regional district services.

Information should be presented in a user-friendly and accessible way, making use of plain language supported by graphics wherever practical to maximize clarity and comprehension.

Figure: Pages from Fact Sheet developed when Huu-ay-aht First Nations and Yuułuʔiłʔath Government became members of the Alberni-Clayoquot Regional District



TOOL 2 - INTRODUCTORY TREATY 101 PRESENTATION

Time Required
1–2 days of direct staff time, likely spread out over 1–2 weeks including liaising with information holders, getting approvals, etc.

Description and Rationale
As a companion to a fact sheet or a stand-alone communications piece, this presentation provides a simple introductory overview of the negotiating First Nation and the BC treaty process for regional district staff, directors and constituents/ residents. The presentation can be made available on regional district websites and delivered at community events to help answer common questions around the treaty process.

The presentation can also highlight the successful regional governance initiatives that have occurred elsewhere in BC (e.g., First Nations of the Maa-nulth Treaty and the Alberni-Clayoquot Regional District, Tsawwassen First Nation and Metro Vancouver).

Procedure
Build on of existing resources and templates from the Province (Ministry of Aboriginal Relations and Reconciliation) and the BC Treaty Commission. As with the fact sheet, involve all parties (participating First Nations, regional district representatives and staff, etc.) in providing key information, and in a review process to confirm that the content is accurate and appropriately presented.

Be sure to solicit input from the regional district on common questions and information gaps about the treaty process and Treaty First Nations to ensure that the presentation can be effectively used to bring new board members, councillors, and regional staff up to speed on key issues.

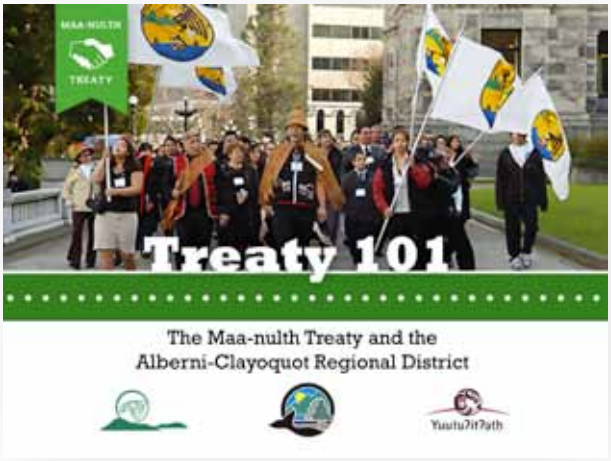
Content
The presentation should use straightforward language and illustrative graphics to communicate the following information:

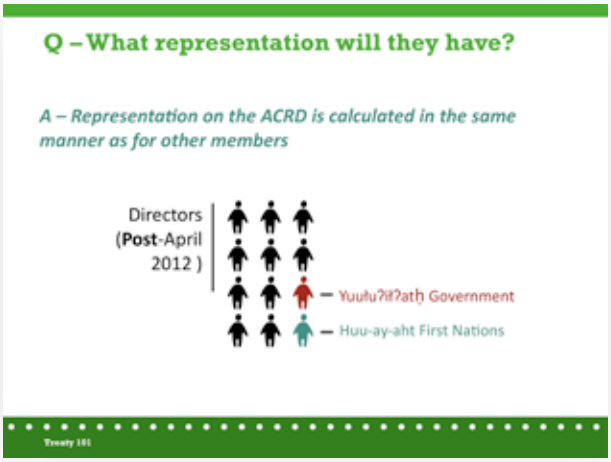
Details of the relevant treaty
- Who's involved
- What's included in the treaty
- Timelines and process

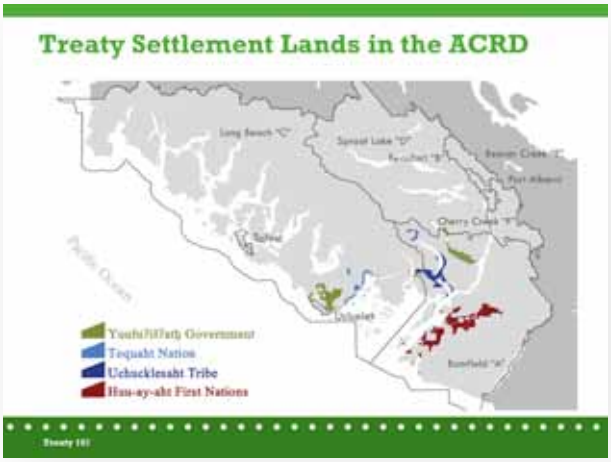
Profile of participating First Nations
- Community and population
- Governance structures and processes

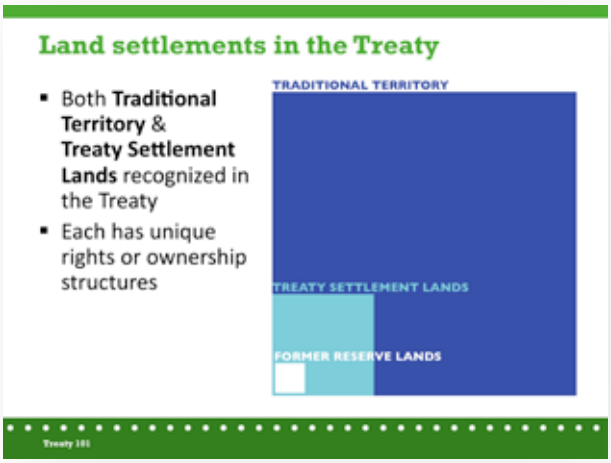
How the treaty could benefit the regional district and local communities
- Additions to regional district membership
- Representation
- Potential service agreements and/or areas of interest and mutual benefit

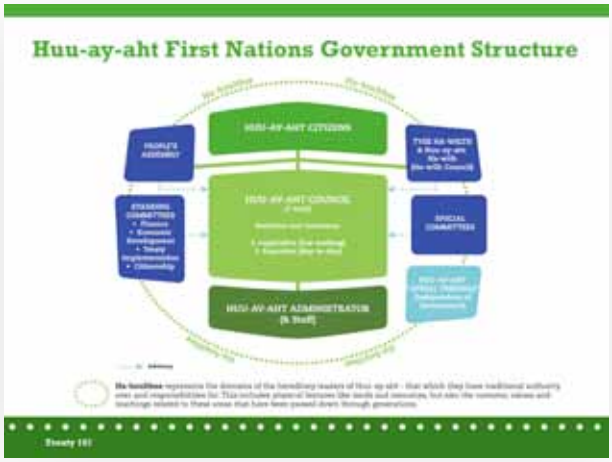
Figure: Screen shots from a "Treaty 101" presentation developed for the Alberni-Clayoquot regional governance process











MID-STAGE TOOLS

Identifying common issues and opportunities — land use planning and management

TOOL 3 - COMMUNITY VISIT/TOUR

Time Required

- Begin planning at least one month out
- Actual visit could be a half or full day plus travel time

Description and Rationale

A visit by elected officials and staff from local governments to a negotiating First Nation's community can help to build relationships and establish better mutual understanding of each other's community concerns, governance structures, and political and administrative processes. It can also be an opportunity to attract and direct media attention to the cooperation between the First Nation and the regional district, which can be used to further build community awareness and educate citizens about the treaty process.

Procedure

Much of the organization of these visits will be the responsibility of the First Nations involved, though the regional district will also need to contribute. Here are a few things to consider when organizing a community visit or tour:

- Establish appropriate venues, transportation, events, and times for the visit/tour;
- If a Fact Sheet has been developed, ensure directors review it prior to the visit/tour;
- Develop a detailed agenda that outlines a schedule of the day's proceedings including times, individuals present, speakers, and activities; and
- Consider developing a press release after the visit to communicate highlights and lessons learned.

Content

Depending on the specific goals of a visit, it may involve different individuals attending different events. Some possibilities include:

- Regional district board and key staff could tour the community and meet local elected persons and staff;
- Regional district board could be invited to attend specific ceremonies or observe proceedings during government processes or meetings (e.g., special Council meeting); and
- Regional district staff touring First Nation's community, infrastructure, proposed development areas, etc.

Figure: Sample press release

{Your logo here)

FOR IMMEDIATE RELEASE:

CONTACT:
Contact Person
Organization Name
Phone Number
FAX Number
Email Address
Website URL

<HEADLINE>

<Regional District/Community>,<Date> Begin your press release with two or three sentences that provide a quick overview of the visit and why it is important. Typically it answers the who, what, when, where and why of the event, giving an idea of what the whole release is about.

Next, a couple of body paragraphs provide some background information on the treaty process and regional governance. Make sure to write your release in terms that the general public will understand. Avoid jargon, and provide definitions that readers might not know about or understand. This section should provide comments by key spokespersons or prominent figures.

End the body with a few lines describing where readers can find more information (e.g., on the general treaty process, specific treaties relevant to this visit, regional governance, and comparable situations that have already occurred).

ABOUT <ORGANIZATION> The final paragraph, known as the "boilerplate", should be a brief description of your organization and what you do. It should be no more than three or four lines long.

- END – *(this lets the reader know the press release is finished)*

Figure: Sample visit agenda

TIME	ACTIVITY
10:00 – 10:15	**1. Whole group – opening remarks / prayer / welcome** • *Elder:* _____ • *Chief:* _____
10:15 – 10:45	**2. Whole group – introductions** Agenda for the day • *(Staff Member or Councillor), (First Nation)* • *(Staff Member or Councillor), (First Nation)*
10:45 – 12:00	**3. Regional directors and First Nation spokesperson – community tour** Visit of important community locations (existing facilities, administration building, land use planning "hot spots" • *Tour leader:* _____
12:00 – 1:00	**4. Lunch**
1:00 – 3:00	**5. Discuss regional district services**
	6. Etc.
	7. Etc.

TOOL 4 - FREQUENTLY ASKED QUESTIONS (FAQS)

Time Required
1-2 days of direct staff time, likely spread out over 1-2 weeks including liaising with information holders, getting approvals, etc.

Description and Rationale
Frequently asked questions and answers can be an easy format to dispel common myths surrounding treaties and implementation. Often, these are the questions that come up over and over again in the public realm or that elected officials hear from their constituents. Providing clear answers to these issues can create public dialogue that is better informed and supportive of further cooperation.

Procedure
When compiling a list of relevant FAQs, make use of existing sources of information, including staff and elected officials with some experience in the treaty process, and consult First Nations communities and other agencies (i.e., BC Treaty Commission, MARR) to ensure answers are accurate before FAQs publication.

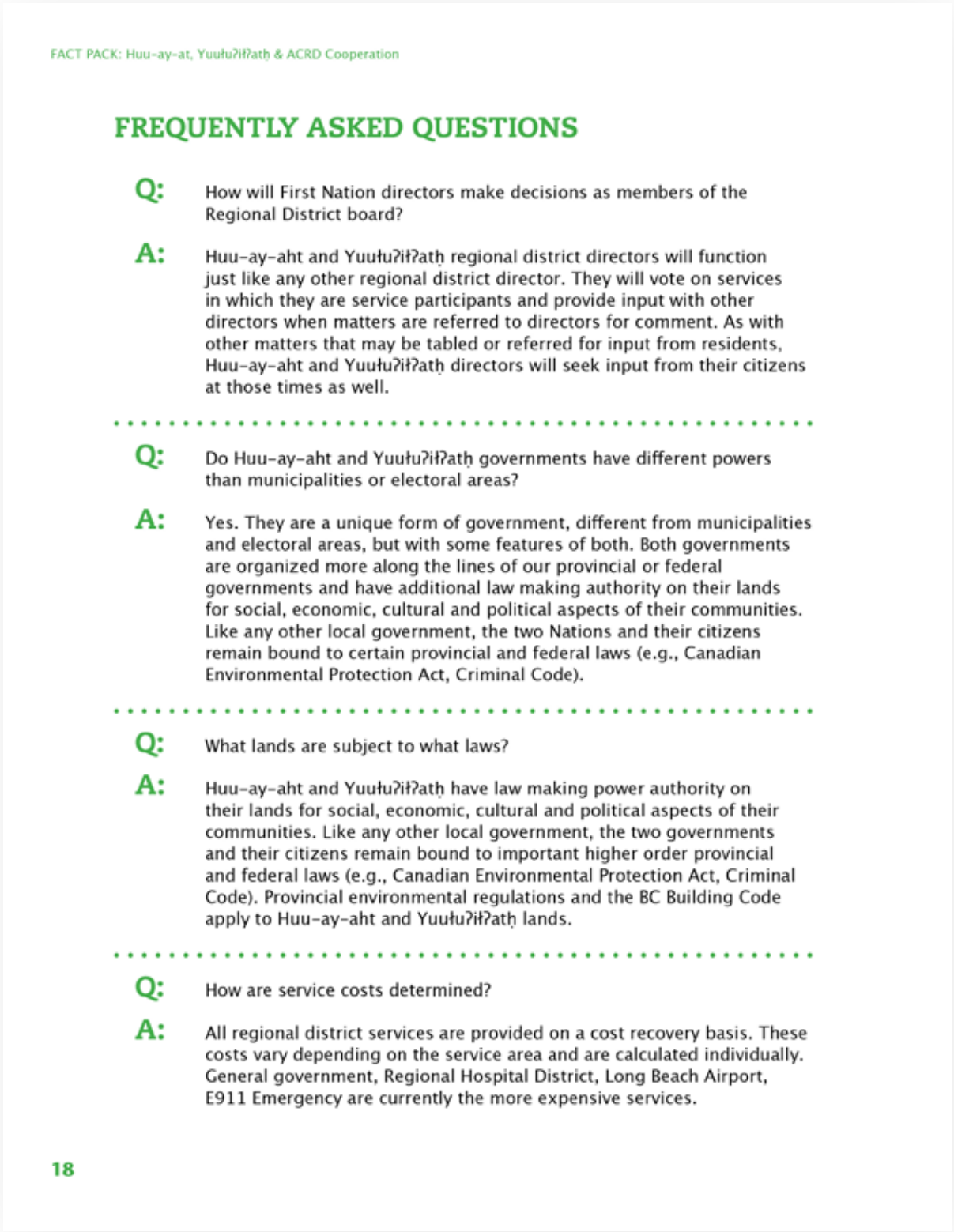
Be sure to distribute the FAQs to elected officials and staff. FAQs can be made available to residents through the regional district website, mail-outs or at public venues such as community centres, and libraries. Try to establish channels for feedback, such as comments on the webpage, where residents can ask follow-up questions or seek clarification.

Content
As with all communications, FAQs should be written using clear and accessible language, and can be supported by providing appropriate links to agencies and websites with further information on related topics. FAQs could address issues like:

- What is the BC Treaty process and how long does it take?
- Who's involved in negotiating a treaty?
- Who pays for it?
- What are Treaty Settlement Lands?
- What laws would apply to Treaty Settlement Lands?
- What authority (law making, taxation management) do Treaty First Nations typically have?
- Why would a Treaty First Nation join a regional district? What are the benefits to the Treaty First Nation and the regional district?
- What are the benefits to the regional district?

Additional FAQs can be produced as the negotiating process enters into different stages. During later stages, Stages 5 and 6, more detailed information on the Agreement-in-Principle and final treaty can be provided.

Figure: Sample FAQs developed for the Alberni-Clayoquot regional governance process



FACT PACK: Huu-ay-at, Yuułu?ił?ath & ACRD Cooperation

FREQUENTLY ASKED QUESTIONS

Q: How will First Nation directors make decisions as members of the Regional District board?

A: Huu-ay-aht and Yuułu?ił?ath regional district directors will function just like any other regional district director. They will vote on services in which they are service participants and provide input with other directors when matters are referred to directors for comment. As with other matters that may be tabled or referred for input from residents, Huu-ay-aht and Yuułu?ił?ath directors will seek input from their citizens at those times as well.

Q: Do Huu-ay-aht and Yuułu?ił?ath governments have different powers than municipalities or electoral areas?

A: Yes. They are a unique form of government, different from municipalities and electoral areas, but with some features of both. Both governments are organized more along the lines of our provincial or federal governments and have additional law making authority on their lands for social, economic, cultural and political aspects of their communities. Like any other local government, the two Nations and their citizens remain bound to certain provincial and federal laws (e.g., Canadian Environmental Protection Act, Criminal Code).

Q: What lands are subject to what laws?

A: Huu-ay-aht and Yuułu?ił?ath have law making power authority on their lands for social, economic, cultural and political aspects of their communities. Like any other local government, the two governments and their citizens remain bound to important higher order provincial and federal laws (e.g., Canadian Environmental Protection Act, Criminal Code). Provincial environmental regulations and the BC Building Code apply to Huu-ay-aht and Yuułu?ił?ath lands.

Q: How are service costs determined?

A: All regional district services are provided on a cost recovery basis. These costs vary depending on the service area and are calculated individually. General government, Regional Hospital District, Long Beach Airport, E911 Emergency are currently the more expensive services.

18

LATE-STAGE TOOLS

Building effective planning frameworks — expanding relationships and capacities

TOOL 5 - COMMUNITY NEWSLETTER

Suggested Time

½ to 1 day of direct staff time, likely spread out over 1–2 weeks including liaising with information holders, getting approvals, etc.

Description and Rationale

A newsletter is part of the broader suite of communications tools, but aimed more specifically to the general public. It is meant to provide summary project information and point readers toward other information resources that might exist (e.g., fact sheets, websites, Treaty 101 presentation).

Procedure

Aimed at a more general audience, newsletters can be distributed online, through regular mail-outs (community newsletters, at postal boxes, with regular billing or other mail-outs), or made available for pick-up at public venues like libraries and community centres.

The newsletter does not have to be a regular feature, but could be revised and updated when major treaty milestones are reached. Newsletters can be particularly effective and important during later treaty stages (i.e., when an Agreement-in-Principle is reached, when a treaty is ratified by the First Nation, or in advance of the treaty effective date).

Content

As a supplementary communications piece, the first edition of the newsletter can use existing information from the fact sheet and Treaty 101 presentation, summarized and reformatted to be no more than two pages (on a single, double-sided sheet). Subsequent issues can provide updates on developments in the treaty process as they relate to regional governance and regional relationship-building initiatives.

Figure: Sample newsletter developed for the Alberni-Clayoquot regional governance process

TOOL 6 - COMMUNITY INFORMATION POSTER

Suggested Time
½ to 1 day of direct staff time.

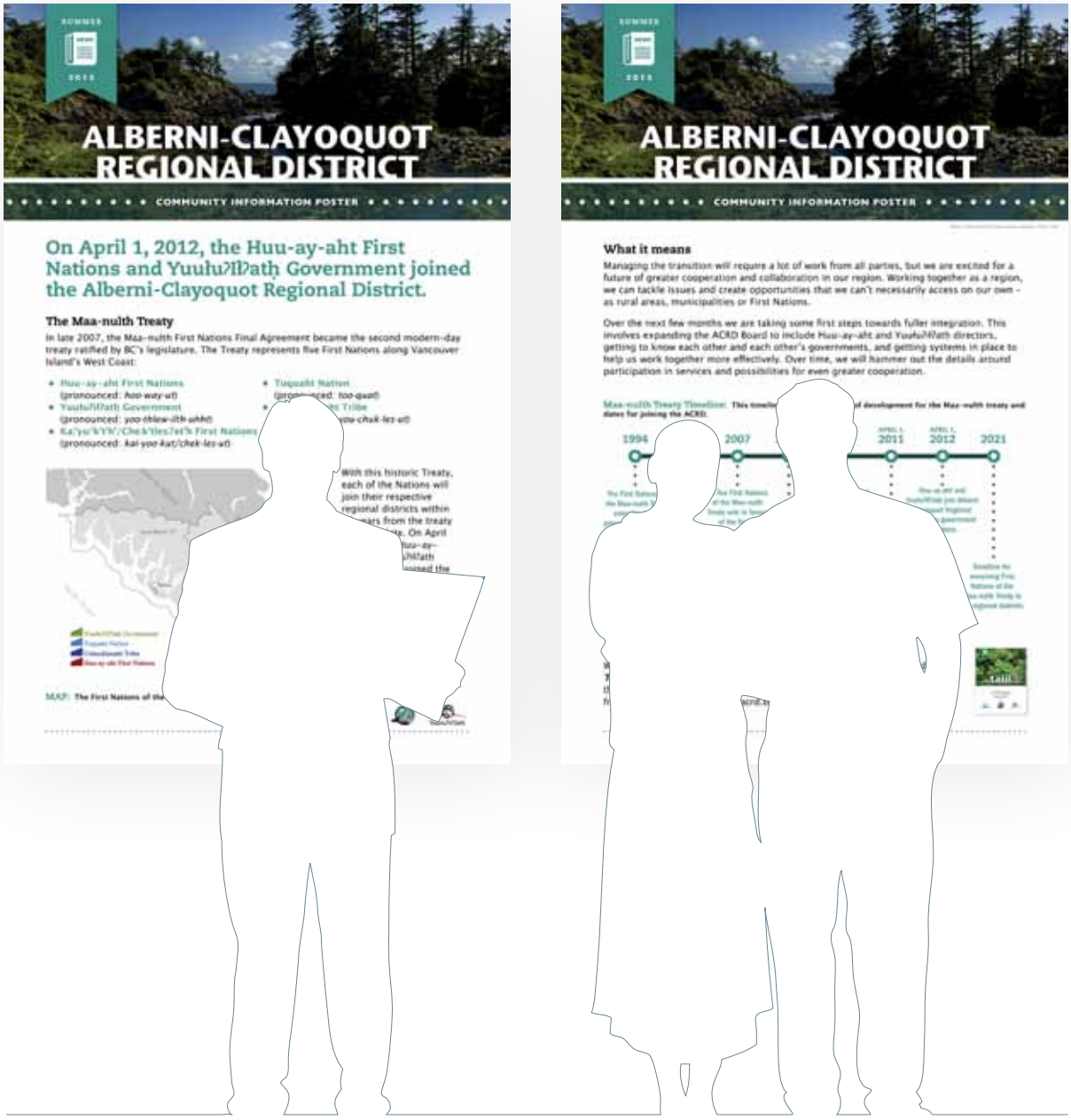
Description and Rationale
A community information poster is essentially a large-format version of the community newsletter that can be posted around the community (at meetings, events, celebrations, etc.) to help increase exposure and awareness.

Procedure
Using regional district plotters or large-format printers, community information posters can be printed two feet by three feet and posted at administrative centres (regional district offices, local government offices, Treaty First Nation offices). Laminated or mounted versions can also be "toured" through the community by regional district staff at community venues (recreation centres, libraries) and displayed at community events like festivals, farmers markets and other events.

Like the newsletter, the community information poster can be updated when major treaty milestones are reached. Such posters can be particularly effective and important during later treaty stages (i.e., when an Agreement-in-Principle is reached, when a treaty is ratified by the First Nation, in advance of the treaty effective date).

Content
The community information poster can mirror the newsletter (meaning two posters might need to be created). Subsequent versions can provide updates on developments in the treaty process.

Figure: Sample community poster developed for the Alberni-Clayoquot regional governance process



TREATY IMPLEMENTATION TOOLS

Getting 'on board' — formalizing relationships, services and planning frameworks

TOOL 7 - SATELLITE BOARD MEETINGS

Suggested Time

Begin planning at least one month ahead.

Likely 1–3 days of staff time for planning and logistics.

Description and Rationale

In the case where a Treaty First Nation joins a regional district board, there is an opportunity to hold satellite board meetings in the Treaty First Nation's community. Holding a board meeting in a Treaty First Nation's community serves several purposes:

- An opportunity for Treaty First Nation staff and elected officials to observe a regional district board meeting;
- An opportunity to further build working relationships between Treaty First Nation elected officials (and hereditary leadership) and regional district directors (i.e., elected officials);
- An opportunity for senior staff (Treaty First Nation, regional district, local government) to meet one another;
- An opportunity for regional district directors and staff to tour and visit the Treaty First Nation if they have not done so already; and
- An opportunity to publicize and build awareness around Treaty First Nation – regional district collaboration and cooperation.

Procedure

Here are a few things to consider when organizing a satellite board meeting:

- Establish appropriate venue able to accommodate regional board and any equipment needs, transportation and other logistics;
- Consider hosting a community event in conjunction with the satellite board meeting, such as a community BBQ, or coordinating the timing of the meeting to coincide with existing community events;
- Publicize the meeting beforehand using press releases (see Tool 3), community newsletters, and social media; and
- After the meeting, use similar media to communicate highlights of the visit.

MORE INFORMATION?

See "Board on the Road" from the Regional District Toolkit published by the Union of British Columbia Municipalities (www.ubcm.ca).

TOOL 8 - STRUCTURED DECISION-MAKING FOR SERVICE PARTICIPATION

Important and complex decisions, like selecting services to participate in, can benefit from structured thinking. This includes separating facts (technical information including uncertainty and risk) from values (preferences). This tool contains three activities that, taken together, lay out a simple way to apply more structured decision-making to a multiple objective process.

Here, it is important to note that these tools are intended for decision *support*; they are not intended to *make* the decision for users. The entire process of identifying desired service areas using these tools (and negotiating the appropriate participation arrangements for them) is a relatively complex undertaking, particularly if the regional district-Treaty First Nation relationship is still in the developing stages. Be prepared to take additional time and to customize the process to suit individual circumstances where necessary and practical.

TOOL 8A - UNDERSTANDING THE DECISION PROCESS

Suggested Time

2 hours, plus additional time for regional district to prepare service overview materials

Description and Rationale

Regional districts provide many services that a Treaty First Nation can benefit from. For regional district members, some services are mandatory and some are optional. For non-members (i.e., those participating through service agreements) all services are optional.

Regardless of whether the Treaty First Nation formally joins the regional district or participates via service agreements, it will need to make some decisions on which services to participate in, when and how. These decisions will likely be based on many factors, from the feasibility of service participation (i.e., whether there is capacity to expand the service area) to how the service will be paid for.

Given the number of core questions that need be answered and the additional research and evaluation that are often required, this tool provides a framework or "decision tree" to conduct a preliminary, "quick scan" review of services.

As regional districts provide many services, the tool is meant to both illustrate the decision process and be used as an initial screen to help narrow the list of services to be considered in more detail. The decision tree was created to be applied in a variety of areas, but may need to be customized to unique situations. Subsequent tools will help with the steps contained in the decision tree.

Procedure

- With the support of the regional district, review each of the service areas provided. Here it is helpful to have a full list of services that identifies current service participants, the most recent total tax requisition for the service (i.e., the total cost of the service) and the current service apportionment method.

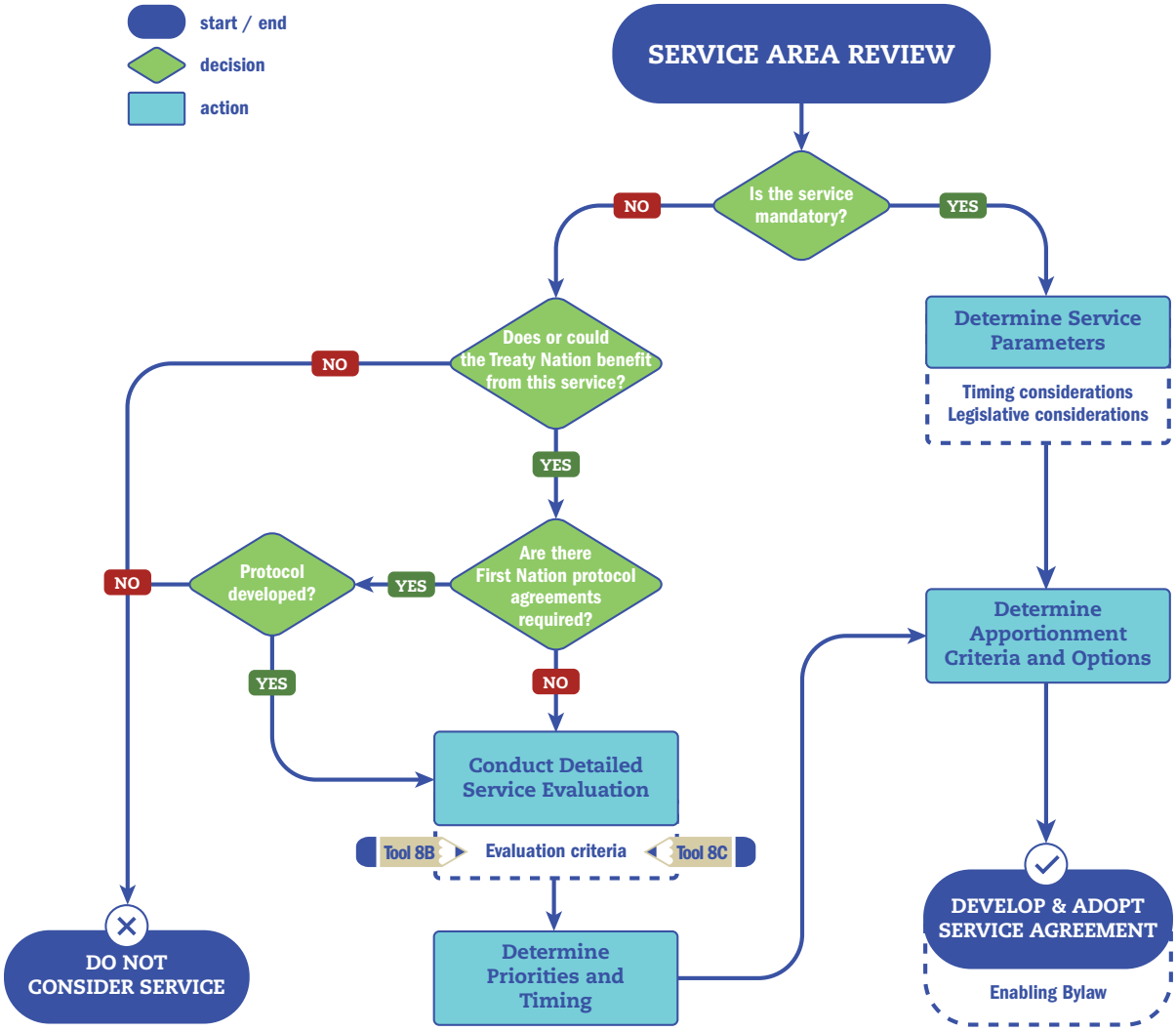
- Remove irrelevant services from consideration (i.e., those services that either are of no interest to the Treaty First Nation or irrelevant, like a small water service for a specific neighbourhood or rural area).

- Run each service area through the framework to generate a preliminary short list of services.

- For each potential service area, determine whether it is something that could be pursued in the near-term (1 to 3 years), the medium-term (3 to 6 years), or the long-term (7 years +).

- Direct rank the list of near- and medium-term potential service areas (i.e., from 1 to 10, or however many potential service areas there are). This can be done as a group or using dot voting where each participant gets five sticky dots that they can place in any combination next to the potential service areas. The intent of this activity is to create a direct-ranked list of services to be used for more detailed evaluation using Tool 8B and 8C.

Figure: Decision Tree/Flow Chart to guide service area decision-making for Treaty First Nations



It is important to note that the first question in the decision tree asks whether the service is mandatory. For the First Nations of the Maa-nulth Treaty, this meant the two services that the Treaty requires participation in – government services and regional hospital district. The Alberni-Clayoquot Regional District has no other mandatory services, while other regional districts will likely have additional or different mandatory services.

TOOL 8B - SERVICE EVALUATION OBJECTIVES & MEASURES

Suggested Time
½ day facilitated discussion

Description and Rationale
In order to further evaluate potential service areas using a more structured approach, a list of service objectives needs to be generated. This list will represent the objectives that service participation could fulfill, and is used to help screen and prioritize potential service areas. A few examples of objectives include:

- Meets needs of citizens / Addresses service need;
- Supports relationship-building (between and amongst local government and Treaty First Nation partners);
- Supports ease of implementation; and
- Maximizes cost effectiveness / Service efficiency.

These objectives can be identified jointly with the Treaty First Nation and the regional district, providing another valuable relationship-building opportunity.

Once a list of objectives has been developed, simple descriptive measures using a High-Medium-Low scale need to be developed. These will be used to populate a decision matrix outlined in Tool 8C.

Procedure
- With the help of a facilitator or meeting chair, brainstorm service objectives, or drivers for selecting a service, on a flip chart or using note cards. Here, some of the objectives may be similar across regions and with local governments, and include the example objectives outlined above.

- Group similar objectives and turn each into a concise objective statement. Objectives have a verb indicating direction of preference (e.g., maximize, minimize, support, reduce) and an object (e.g., service efficiency, residents).

- Develop simple, descriptive measures for each objective using a High-Medium-Low scoring where Low equals no change from the current situation (see example in the “Case in Point”). The measures along with the objectives will be used in Tool 8C to help determine priority service areas and timing.

A CASE IN POINT
Service Objectives & Measures - Huu-ay-aht First Nations, Yuułuʔiłʔatḥ Government and the Alberni-Clayoquot Regional District

Huu-ay-aht First Nations, Yuułuʔiłʔatḥ Government and the Alberni-Clayoquot Regional District (ACRD) identified four broad service objectives:

- Meets needs of citizens / Addresses service need;
- Supports relationship building (ACRD and local governments);
- Supports ease of implementation (i.e., procedurally, organizationally, politically)
- Maximizes cost effectiveness / Service efficiency.

The table below illustrates the objectives and the corresponding measures that were developed for the subsequent evaluation session (see Tool 8C) that allowed participants to evaluate each service area by service objectives.

OBJECTIVE	MEASURE
Pre-Requisite — Requires Protocol Agreement	**Y/N**
Score	**H=5; MH=4; M=3; ML=2; L=1**
Meets needs of citizens / Addresses service needs	**H**=Urgently needed; high demand and broad support
	M=Good to have; improves service; citizen support
	L=No change; current services already meeting citizen needs
Supports relationship-building (ACRD and local governments)	**H**=Win/win; committee work required
	M=Some committee work required
	L=No relationship building, no committee work
Supports ease of implementation (i.e., procedurally, organizationally, politically)	**H**=Straighforward contractual procedure
	M=Some work ("spreadsheet" and "table" work)
	L=Significant staff time and facilitated support likely required
Maximizes cost effectiveness / Service efficiency	**H**=Lower cost, improved service
	M=Similar or apportionment uncertain
	L=Higher cost, no service improvement

TOOL 8C - SERVICE EVALUATION AND PRIORITIZATION

Suggested Time

½ day facilitated discussion

Description and Rationale

Now is the time to evaluate and prioritize the short-listed services based on their ability to meet the objectives and accompanying objective measures identified with Tools 8B and 8C. In this activity, participants will continue to work through a structured evaluation process that will result in two different ranking outcomes:

- A technical rank based on an impact score; and
- A weighted rank that considers how participants rank and weight objectives.

The different methods used in this tool will allow participants to think through the costs, benefits and tradeoffs, and to consider issues such as sequencing and uncertainty. Using this tool will also provide participants with a transparent output that can be easily and clearly presented to other stakeholders, including elected officials, staff, residents, Treaty First Nations citizens, and others.

Procedure

Step 1: Create the matrix

Using the objectives and measures from Tool 8B, create a table with the objectives and shortlisted services (i.e., the near- and medium-term services shortlisted and direct ranked in Tool 8A) as illustrated. Tables can be created on a computer using Word or Excel, or simply flip-charted. Whichever method is used, the matrix can either be filled out at the workshop, or filled out beforehand by an expert group and confirmed/revised at the workshop. To fill it out beforehand, follow the instructions below.

Figure: Blank Technical Ranking Matrix

	MEASURES	Service A	Service B	Service C	Service D
Objective A	High (from Tool 8B) Medium (from Tool 8B) Low (from Tool 8B)				
Objective B	As above				
Objective C	As above				
Objective D	As above				

Step 2: Technical Ranking

Using the matrix, go through each service and evaluate it against each objective using the measures. Each cell should be filled in with a High, Medium or Low score (Note: a Medium–High (4 points) and Medium–Low (2 points) measure can be added to the scoring for more flexibility). This is called a technical ranking. For each service, add up the scores using the measures (i.e., High=5 points, Medium=3 points, Low=1 point). When completed, the matrix may look like the one pictured. Ties in the Technical Rank are possible.

Figure: Sample Technical Ranking Matrix

	MEASURES	Service A	Service B	Service C	Service D
Objective A	High (from Tool 8B) Medium (from Tool 8B) Low (from Tool 8B)	H (5)	L (1)	H (5)	L (1)
Objective B	As above	M (3)	M (3)	L (1)	M (3)
Objective C	As above	H (5)	H (5)	M (3)	M (3)
Objective D	As above	M (3)	M (3)	L (1)	H (5)
	DIRECT SCORE	5+3+5+3=16	1+3+5+3=12	5+1+3+1=10	1+3+3+5=14
	TECHNICAL RANK	**1st**	**3rd**	**4th**	**2nd**

Step 3: Objective Weighting

To provide another level of detail, the participants can also rank and weight each of the service objectives to better understand their relative importance. The approach illustrated here is quite simple and can be flip-charted with participants. For those with strong Excel skills, other more complex methods may be used.

- First, get each participant to direct rank the service objectives by writing a 1 next to their first choice, a 2 by their second choice, and so on.

- Next, get participants to assign a value weight of 1 next to the objective they consider least important (i.e., the bottom ranked objective, which in the example below, is Objective B). Ask each participant to think about the relative importance of the next lowest ranked objective (Objective C in the example below). How much more important is it than the bottom ranked objective? If it is twice as important it would receive a 2; if it is equally important it would receive a 1 (as shown in the figure). Repeat the weighting for each of the remaining objectives.

Figure: Sample Objective Ranking and Weighting Matrix

	RANK	WEIGHT
Objective A	1st	5
Objective B	4th	1
Objective C	3rd	1
Objective D	2nd	3

Step 4: Weighted Ranking

After completing the objective ranking and weighting, create another matrix to complete the weighted ranking of the potential services. For each service, multiply the value weight with the technical score from Step 2 to generate a weighted score. In the shaded cell in the next figure, Service A had a technical score of 5 (i.e., it was rated "High") when evaluated by Objective A. This score is then multiplied by the value weight in the first column. As the value weight in this cell was also high, the final score is relatively high in comparison to the other cells where either the value weights were low, the technical scores were low, or both. Next, add the weighted scores for each service together to get a total weighted score.

Figure: Sample Service Area Weighting Ranking Matrix

	VALUE WEIGHT	Service A	Service B	Service C	Service D
Objective A	**5**	**25**	5	25	5
Objective B	**1**	3	3	1	3
Objective C	**1**	5	5	3	3
Objective C	**3**	9	9	3	15
TOTAL WEIGHTED SCORE		42	22	32	26
WEIGHTED RANK		**1st**	**4th**	**2nd**	**3rd**
TECHNICAL RANK		**1st**	**3rd**	**4th**	**2nd**

Once the weighted scores have been generated, they can be compared against the direct ranks from Tool 8A, and the technical ranking from Step 2. As illustrated, while the highest technically ranked service (Service A) remains the highest ranked service in the weighted rankings, the order of the others changes, particularly with Service C, which jumps from 4th place to 2nd. In some cases, the weighted rankings will produce different results, while in others (as illustrated in the next

Case in Point), the ranking can be quite consistent across the methods used. In either case, the additional layer of analysis provided by the weighted ranking can provide a helpful discussion and decision tool.

Step 5: Additional Analysis

After the top three or four service areas have been identified, additional analysis will be required. Here, it is important to stress again that Tools 8A, 8B and 8C are only decision *support* tools; they are meant to focus discussions, illustrate tradeoffs, and make the decision-making process more transparent and objective. The regional district (along with the Treaty First Nation government) will make the final decision regarding service participation. Typical next steps include:

- **Additional financial review:** The regional district's financial officer reviews the preliminary service cost and requisition estimates used in the technical analysis to ensure their accuracy (if they have not done so already).

- **Technical staff working group review:** Regional district and Treaty First Nation representatives associated with, or with particular expertise in the service in question, meet to discuss and review final service areas. Additional evaluation can be conducted (e.g., on potential liability issues) and potential cost apportionment methods discussed and determined.

- **Government briefing and decision-making:** Following final technical staff review, a briefing note and presentation can be prepared for both the regional district board and the Treaty First Nation government on the service prioritization process and its recommendations. The governing bodies then provide staff direction on if, when and how to proceed to final service negotiations.

A CASE IN POINT
A variety of ranking methods, consistent choices

The table below illustrates how one of the Treaty First Nations in Alberni-Clayoquot Regional District prioritized their near-term service participation options. It illustrates that there was considerable consistency between these different ranking methods, with clear agreement of the top four service areas. The top-ranked services across all methods were Service D, Service C, Service B and Service A. The differences were largely due to remaining uncertainties. The final ranking was dependent on further analysis of the top four service areas.

	SERVICE A	SERVICE B	SERVICE C	SERVICE D	SERVICE E	SERVICE F	SERVICE G	SERVICE H
Direct Rank	4	1	3	2	–	–	–	–
Technical Rank	4	3	2	1	7	4	6	8
Weighted Rank								
Participant 1	3	4	2	1	7	5	6	8
Participant 2	5	2	3	1	7	4	6	8
Participant 3	4	3	2	1	7	5	6	8

RESOURCES

There are a number of valuable sources that provide more information on the topics covered in this toolkit.

For more information on First Nations and the BC treaty process:

What's in these Treaties: A plain language guide to the Tsawwassen First Nation Treaty and the Maa-nulth First Nations Treaties
www.bctreaty.net/files/pdf_documents/What'sInTheseTreaties2008.pdf

Why Treaties? A Legal Perspective
www.bctreaty.net/files/pdf_documents/why_treaties_update_Aug08.pdf

For more information on local governments and regional districts:

Union of BC Municipalities – Regional District Toolkit
www.ubcm.ca/library/default.aspx

Local Government in British Columbia: A Community Effort
www.ubcm.ca/assets/library/Publications/Local~Government~in~British~Columbia/UBCM%20Local%20Gov%202012.pdf

A Primer on Regional Districts in British Columbia
www.crd.bc.ca/about/documents/primer_rd_bc.pdf

Local Government Act
www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96323_00

For more information on local government and First Nations partnerships:

CivicInfo BC – Agreements with First Nations
www.civicinfo.bc.ca/13_show.asp?titleid=4

First Nations – Municipal Community Infrastructure Partnership Program: Service Agreement Toolkit
www.fcm.ca/home/programs/community-infrastructure-partnership-program/program-resources/service-agreement-toolkit.htm

Treaty Settlement Land: The Fiscal Impacts on Local Government
www.gov.bc.ca/arr/reports/down/Final%20Report%20Nov.pdf

New Relationships with Aboriginal People and Communities in British Columbia: Annual Report on Progress 2010-2011
www.gov.bc.ca/arr/reports/down/annual_report_2010_2011.pdf

Local Government Service Agreements with First Nations: A Discussion Paper Prepared by the Lower Mainland Treaty Advisory Committee
www.metrovancouver.org/region/aboriginal/LMTAC/LMTACDocs/LMTACServicingAgreementsDiscussionPaper_Sep222011_.pdf

Towards a Model Local Government Service Agreement with Lower Mainland First Nations
www.metrovancouver.org/region/aboriginal/LMTAC/LMTACDocs/SERVICINGPAPERFinal-Sept2006.pdf

The Powell River-Sliammon Experience
www.bctreaty.net/files/pdf_documents/Powell-River-Sliammon-Experience.pdf

First Nation/Local Government Service Contracting
www.rbish.ca/ContractingManu.pdf

Agreements with First Nations
www.civicinfo.bc.ca/13_show.asp?titleid=4

Agencies, Organizations and Government

BC Treaty Commission
www.bctreaty.net

Ministry of Aboriginal Relations and Reconciliation (MARR)
www.gov.bc.ca/arr/

Union of British Columbia Municipalities (UBCM)
www.ubcm.ca

Aboriginal and Northern Development Canada
www.aadnc-aandc.gc.ca

Federation of Canadian Municipalities (FCM)
www.fcm.ca

National Centre for First Nations Governance
www.fngovernance.org/

Ministry of Aboriginal Relations and Reconciliation
PO Box 9100 STN PROV GOVT
Victoria, BC V8W 9B1
Toll-free: 1.800.880.1022
ABRInfo@gov.bc.ca

Document prepared with the assistance of:
EcoPlan International | 208-131 Water Street | Vancouver, BC V6B 4M3 | 604.228.1855 | info@ecoplan.ca